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my printed sermons; from words spoken by me in debate in an ecclesiastical court, and from an action of the Presbytery of California, which he styles "as ecclesiastical thunder poured upon my ears." Of these several sayings, and doings, and persons, he thus speaks: "These odious flings, inuendoes, misrepresentations and actual falsehoods"—"It always betrays the weakness of a man's cause \* \* or the maliciousness of his heart for him to undertake to overturn argument by personal flings"—"For the writers of such abusive personal flings and epithets, I can have no other feeling than that of pity." "I found myself not only proscribed for the opinions uttered, but for months, stereotyped and new misrepresentations of my sentiments were widely circulated \* \* and more than all, ecclesiastical thunder was actually poured upon my ears." "For these sentiments," (referring to his sermon published in the *Times*.) "Calvary Presbyterian Church was to be broken down, and its pastor virtually banished. Already were the spoils divided, and speculations indulged as to what other churches would be built up out of the ruins."

Now let it be noted, that these are grave charges to be preferred by one minister of the Lord Jesus, against three other ministers, and one of them a co-presbyter with himself, and for whom he says, on the same page, "I have the highest personal respect." If these charges be true, the parties implicated deserve the severest rebuke; and more especially so, if all this effort, by writing and preaching, to get God's word into the schools, and to obtain a law for the better observance of His Sabbaths, was a mere hypocritical pretense, under cover of which Dr. Scott was to be persecuted and Calvary Church broken down.

*The occasion* of this alleged persecution, the Dr. tells us, was the *publication of an extract from one of his sermons in the San Francisco Times*, and he leads us to infer, that in *consequence* of this published extract of his, the pulpits of the city and State took up the subject of the "Bible in the schools." Thus on page 11, he says: "The pulpits of the city and of the State, have taken up the subject to some extent—how extensively, I am not precisely informed, but in many of the interior towns the pulpits have been thus employed; and the Rev. Drs. Anderson and Peck of this city, for whom I have the highest personal respect, have at least preached seven Sunday evening discourses on the subject." I humbly submit that the pulpits of the "interior towns," and those of Drs. Peck and Anderson could not be better "employed," especially in a State, in the public schools of which, God's Bible is not found.

Now it so happens, that those Bible sermons of mine were a part of a series on the cardinal doctrines of our holy religion, which was commenced on the 17th October last. Having, in that series, found that man's chief end was to glorify God and enjoy Him forever—and having found that

God had given him a rule by which he might secure that end, and having finished the evidence for the genuineness, authenticity, and, indeed, Divine authority of the sacred Scriptures, and having found them to be, not merely "King James' Bible," "a sectarian book," "gotten up for an avowedly sectarian purpose," as Dr. Scott says, but the very word of the Living God, the only infallible rule of faith and practice, I undertook to show the vital importance of placing this infallible rule of life in the hands of the children in our California schools; and so far were these discourses from being designed to persecute Dr. S., so far from being *called forth* by his article in the *Times*, two of the four were delivered before that article appeared! I am free to declare that at the beginning of the delivery of those discourses, the idea of Dr. S. never crossed my mind. I was simply discharging a great duty which I owed to God and my country. The fact must be borne in mind, that my first lecture was announced in the city papers before the Rev. Dr. came out in his pulpit on the subject, and I must admit, that his selection of that particular time, was by me regarded as *aggressive*—as throwing down the gauntlet; as a warning to all the friends of the Bible movement to beware, for an opponent was in the field. So much for this part of the persecution.

With respect to the quotation from my sermon, which he places in his list of "inuendos, flings, and absolute falsehoods," let me say that it had no reference to him—was not meant for him. The quotation is, "and because the State has no right to make itself a party in a sectarian and infidel association, which has for its sole object the dishonoring of the Word of God, and the changing the ways of our forefathers for more than two hundred years." I was speaking of the duty of the State. All through the discourses, the Romish church, and its great Ajax, Bishop Hughes, were spoken of as "the sectarian party" by whom this whole war against the Bible had been gotten up. The "infidel" part of the association, was represented as composed of men, who disbelieved the Bible, and consequently had united their forces with Rome for its removal from the schools. These were the parties to whom that extract referred. It never, for one moment, occurred to me, that Dr. Scott would apply to himself, words spoken against such an association. He is neither a Papist, nor an Infidel; nor did I think of him when that sentence was written and uttered! If Dr. Scott is conscious that his sentiments and wishes on this particular question, are in harmony with that anti-Bible, anti-Sabbath alliance, and if his conscience makes application to himself, which I never meant, he must accuse conscience, not me. So much for this part of the dire persecution.

The impression which the whole of the *persecution part* of this extraordinary pamphlet leaves on the reader's mind, is, that the parties who

oppose Dr. Scott's views are his personal enemies, and desire to destroy his influence. This impression is not true, the parties *are not* his enemies. I have conversed with them all, Dr. Peck, Mr. Thomas, and Mr. Warren, and I have never heard one of these gentlemen utter an unkind syllable about him. True, we have all deplored the fact, that Dr. Scott is against us, in the great struggle in which the Church on the Pacific coast is engaged with the Man of sin, and with other enemies of the Bible in schools, and of Sabbath laws. Amid many discouragements, far away from the old church at home, and in my own case, I have sometimes thought, far away even from its sympathies, a few of us are toiling in this "Bible-school work." We are laying the foundations on which the future State and Church of God are to be reared; and we cannot, we dare not, lay a foundation of which the Bible forms no part. We are laboring and praying that both the State and the church may be "built on the foundation of the Apostles and Prophets, Jesus Christ himself being the chief corner-stone." When, amid these toils, an esteemed, influential minister of Jesus, one who ought, as we believe, to be a co-worker with us, tells us, as Dr. Scott does, "That the government has no Bible—does not profess to believe in any"—"that the Koran, the Hebrew Scriptures, the Douay version, the holy books of the Hindoos, are as much recognized in the administration of an oath as our *Protestant* (?) Bible."—When he tells us that "our Legislators have just as much right to take the people's money to buy their coats with, as to pay a chaplain to say prayers for them"—when he tells us that our English Bible "is a sectarian book of human origin, *just this and nothing else*," and when, with an air of triumph, he asks *what Bible* we wish put into the schools; "agree among yourselves, gentleman, whether it is King James' translation that is to be used, or some other." In short, when Dr. Scott arrays himself in armor—places himself at the head of this fearful crusade against, what we conscientiously believe to be God's truth, and gives to the movement character, and strength, and power, we all mourn over it, but we do not traduce him, we do not persecute him, we do not hate him. I repeat that a personal reflection against him has never been made in my presence by any one of these so called enemies of his.

And as to the grievous charges that, "for these sentiments Calvary Church was to be broken down, its pastor virtually banished, the spoils divided, and other churches built up out of its ruins," I have only to say, that the *first hint* of it reached me through his Tractate, as he calls it—nor have I found a single being of my acquaintance, man, woman, or child who ever heard it from any other source than the aforesaid Tractate. I do not, for a moment, question his veracity, but it does seem to me that he must have some unscrupulous informers. If such a plan was ever

formed, or such speculations ever indulged, they must have been confined to narrow limits.

As to myself, I am guiltless in this matter. To me, a *Presbyterian*, the progress and strength of Calvary Church has been a source of pride. It is true, that in the dark days, and almost hopeless struggles through which my own church passed, it often occurred to me, *perhaps* erroneously, that we did not receive from the Calvary people, that sympathy and material aid which, in the circumstances, we had a right to expect. Right or wrong, that is still my opinion; but, notwithstanding this, never have I desired to injure that church. I would not remove one stone from her temple, or shade one ray of her glory—and highly as I esteem many of her members, I would not proselyte one of them if I could. The dark days and weary struggles of the First Presbyterian Church are passed away, nor needs she to be “built up out of the ruins” of her Calvary sister. Under the blessing of her Divine Head, she is growing “like a tree planted by a river”—eighty-nine members have been added to her within the year, and she has an unmistakable future. Strange and paradoxical as it may appear to those who labor under the pleasing illusion that they are the observed of all observers, the objects of all envy, the amiable subjects of all persecution, and the beau-ideal of all excellency, it is nevertheless true, that, were it in my power, I would not this day exchange my pastoral charge for that of Dr. Scott—and let me say that the above remarks are not intended for him, but for that portion of his congregation, (a small portion I believe) who are constantly raising his cry of “persecution,” “envy” and “opposition.”

While I neither endorse nor excuse some of the expressions applied to him, I must say that the Christian people of San Francisco have grown weary of this oft repeated cry of “envy and persecution.” If Dr. Scott places himself in opposition to what the community suppose to be a great reform movement, and the newspapers assail him, just as they would any other respectable man, instantly comes the “charge of persecution.” If he is assailed by an anonymous writer, on a mere ecclesiastical question, the same cry is raised. If he writes an article which in its tendency is injurious to a respectable religious journal, and its editor makes strong defense, and perhaps carries the war into Africa, immediately is heard the same cry; and if, as in the present case, he selects the particular time, when this great question of the use of the “Bible in the schools” is being discussed by the press and by the pulpit, to throw himself into the opposition, and thus shock the moral sense of a large portion of the religious public, and in consequence thereof his course is condemned, this is persecution. That Dr. Scott has the right to preach and write on any side of any given subject is freely admitted; but he has no right to bring griev-

ous charges against those who honestly differ from him, and who fearlessly oppose him. On all these grounds, I disclaim wholly the character of an enemy and a traducer of Dr. Scott, and at the same time must deny his right to assume the character of a persecuted man, who has been forced to act in self-defense in this whole case.

I regret to have occupied so much time in these preliminaries—and still more regret that some remain to be considered hereafter, viz: “Words spoken by me in debate,” “Ecclesiastical thunder poured upon him,” and a question of historic fact about which we entirely differ, viz: As to the conduct of the old church at home in relation to the subject now in debate between us.

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No. 2

MR. EDITOR:—There is, perhaps, no one act so revolting to the American mind as that of persecution for religious opinion, and the more especially if done by an ecclesiastical court. In papal countries the Pope can utter his bull, and make his ecclesiastical thunder rattle around the ears of any poor heretic who has dared to read the Bible; but in free countries, the bare mention of the act is intolerable. The church-court which would employ such means to restrain or oppress any of its ministers or members, would justly merit the reprobation of every citizen and Christian. Now this odious, unchristian, un-American thing, Dr. Scott declares has been done to him by his Presbytery! On page 12, speaking of the discourses delivered by Dr. Peck and myself, he says, “Nor has any ecclesiastical court been asked to thunder forth its bull against them;” and on page 15, where he is attempting to prove that this controversy had been forced upon him, he says, “But when I found myself not only proscribed for the opinions uttered—but that, for months, stereotyped and new misrepresentations were widely circulated, and, more than all, *when ecclesiastical thunder was actually poured upon my ears*”— \* \* \* “then I could no longer remain silent.” Is this heavy charge warranted by the facts of the case? On the 10th of December, 1858, the extract from the sermon in which Dr. Scott takes ground against the Bible in the schools, was published in the *Times*, and, as might have been expected, very much astonished and grieved the friends of that measure. Everywhere among those who were unacquainted with our denomination, the question was asked, “Is Dr. Scott a fair exponent of the views of the Old School Presbyterian Church on this great subject?—is it possible that such is the faith of that large body of Christians? While this question was agitating the public mind, a second, and *apparently* semi-official utterance was made by the Doctor

in the *Sacramento Union*. That journal had stated that the *Pacific* was the organ of the Presbyterian Church. The *Union*, through misinformation, erred as to the fact; for while the *Pacific* is a highly respectable and reliable religious journal, and while it represents the interests of the Congregational and Presbyterian Churches on this coast, and in the main is supported by them, yet it is not their organ, because in its business arrangements and editorial conduct it is wholly independent. This, to my mind, very unimportant error, Dr. Scott corrected in a letter to the *Union*, under date of Dec. 28th, 1858. After showing, from the character of our ecclesiastical organization, that we could have no such organ, he thus speaks, "Having the honor to be the Moderator of the General Assembly which met in New Orleans in May last, and having to preside at the one which is to meet in the city of Indianapolis next May, I know whereof I affirm, and have a right, if indeed it be not my official duty to protest against any such Journal as the above named, being considered and appealed to, in the history of this noble State, as an organ of the Presbyterian Church." This, otherwise amusing deliverance, coming in immediate connection with his published views on the Bible question, seemed to be decisive as to this Bible, and indeed, all other matters of Presbyterian faith and practice. Here speaks the Moderator who knows whereof he affirms, and if he is a fair exponent of the views of the Presbyterian church, in relation to the *Pacific*, doubtless he is so in relation to the Bible-in-school subject. So men reasoned, and logically too.

Under these circumstances, for the Presbytery to have returned Dr. Scott to the General Assembly, as its representative, without first placing itself right on the record, I believed, and still believe would have been an endorsement of his views. Presbytery met on March 23d, 1859, (I omit the history of a previous meeting as not essential to the point before us) the election of a commissioner to the General Assembly came up, and I frankly stated my conscientious conviction, that in view of the public stand Dr. Scott had taken on the Bible question, and in view of his Sacramento letter, to elect him as our representative would be equivalent to an endorsement of his course. I begged the members of the Presbytery, who might not regard the matter as I did, to proceed with the election, and having recorded my vote in the negative, I would cheerfully submit; or if unanimity was desired, I stated that if the Presbytery would adopt a resolution expressing, what I knew to be its sentiments on the great subject in debate, "I would vote for Dr. Scott with both hands." The latter course was adopted, and the subjoined resolution was written by Judge Coon, an Elder of Calvary Church—a man, in point of intelligence and straight forward conduct, not second to any member of that large and respectable congregation, and the last man in the world who would

have been influenced by any prejudice or caprice of mine, to do that which he did not believe it right and proper to do.

*Resolved*, That in the opinion of this Presbytery, the subject of the Bible in the Public Schools is one of great importance, and that this Presbytery is in favor of what is commonly understood as the use of the Bible in said Public Schools."

After the resolution was written, Dr. Scott was elected by the unanimous vote of the Presbytery, I voting most cheerfully for him, as doubtless I will do again, should his life and mine be spared. The resolution was then adopted, the Dr. alone voting in the negative, and giving notice of a protest, which has since been handed to the Stated Clerk.

These, gentle reader, are substantially the facts in the case. This is the "ecclesiastical thunder which was actually poured upon Dr. Scott's ears!" This is both the "bull" and the "thunder." Because the Presbytery of California deemed it proper to express its convictions that the word of God ought to be in the public schools, and because it chose to express those convictions at the time, in the manner, and for the reasons just named, it is charged with the most odious of all oppressive acts! To my mind, there is something very unkind in torturing into an act of persecution and oppression, this natural, lawful, and necessary act of our Presbytery. In behalf of myself and my brethren, I repel the charge—it is not true—but let it pass, and take its place among the other persecutions already noticed.

In his list of "odious flings, absolute falsehoods," etc., the Dr. names "certain remarks made in an ecclesiastical court"—these, I presume were words spoken by me at the above named meeting of Presbytery, and are as follows, "I am slow in getting into a fight, but I come square up to it, and will fight it through, and be the last to come out of it. In for a ten years' war or until victory." In verification of the first clause of this somewhat free-and-easy specimen of eloquence, let me say, that at the close of the thirty-second year of a pretty active ministerial life, I find myself, for the *first time*, engaged in a public controversy in defense of myself and my principles. As to the words themselves, it must be admitted, that the boxer's figure of "coming square up to it," is neither clerical nor classical, neither sublime nor beautiful; but since my worthy friend, the Doctor, has made them of record in his logical Tractate, I suppose there is nothing left for me but to father them, and endeavor to verify the fact under the somewhat rough figure. Although the words have entirely escaped my memory, they are no doubt correctly reported, and if I had not spoken them then, I will speak the sentiment they contain now, and say deliberately before God, that so long as the blessed Master whom I profess to serve, gives me a tongue to speak, or a hand to hold a pen, so



long will I make battle with Romanists, and Infidels, and misguided Christian men, or until California, with the Bible in her schools, and with a law to protect her Sabbaths, shall take her place among her noble sisters of New England, New York, New Jersey, Pennsylvania, Ohio, and all the other Sabbath law, and Bible-in-school States. True, I may not, most probably will not, live to see the victory achieved; before that my "right hand may have forgotten her cunning," and my tongue may be quiet in the "narrow house appointed for all living;" but even then I will leave the unwon battle as a heritage to my son and to every other young minister of Jesus on the Pacific coast, who will regard my dying charge. Yes; *I am* in "for this war until victory," such is my fixed purpose, God helping me,—but surely these words spoken in debate, and thus solemnly reiterated now, cannot truthfully be placed in the Doctor's list of inuendoes, flings, and absolute falsehoods, nor can he claim under them, the character of a persecuted man.

The historic fact about which Dr. Scott and I wholly differ, is thus introduced by him, page 16, "The Rev. Dr. Anderson gives as a sectarian reason why he preached four Sabbath evenings on the Bible in the schools, that the Presbyterian Church is forming its character on the Pacific coast—and what shall be its type? Shall it bear the noble form of the old Church at home, which has ever been found in the van when stout battle was to be fought with infidelity and popery in defense of the Bible in schools, in defense of laws for the better observance of the Sabbath and for the suppression of Sunday mails? or shall it lower its standard and assume a form which will not do violence to the spirit of the world, and the existing state of things here? In discussing this subject we hope to contribute somewhat toward the restoration of the Bible to our California schools, and at the same time to show to those unacquainted with us on this coast, what is the uniform faith and action of the Presbyterian Church of the General Assembly in relation to the subject; for the views which we hold, and here express, are but the views held and expressed by our whole church."—This I asserted as a fact notorious to all Presbyterian men, to all sister churches who are familiar with our "faith and action," and to every other mortal man who knows anything about us. Whether my "sectarian reason" for giving publicity to this fact was a sufficient one, I leave those to judge who have read the Doctor's bulletin extraordinary in the Sacramento *Union*. The character, the honor of the Presbyterian Church required the public declaration at my hands, and I made it. Had Dr. Scott come boldly out and said at the beginning of his Tractate, the sentiments which I am about to write are not those of the Presbyterian Church—for while I am opposed to the use of the Bible in the schools—opposed to all legislation for the suppression of Sunday mails, or to secure

the better observance of that holy day, and opposed to taking the people's money to pay chaplains for saying prayers, that church advocates all these things. Had he thus spoken out, I should not have uttered one syllable on this part of the controversy. Instead of this manly declaration of what is certainly true, he undertakes to prove that he has the sympathies of the church. Because the "imprimature of the Board of Publication" was given to a previous work of his—and because the Biblical Repertory favorably noticed the same, he leaves us to infer that both are with him in his present anti-Bible enterprise. After referring to these commendations, he says, "It is an unspeakable comfort, in the midst of toil, to be cheered by the sympathy and support of the wise and the experienced." Without pausing to enquire into the literary taste which secured for the Giant Judge the imprimature of the Board of Publication, I would respectfully ask, does Dr. Scott expect the imprimature of that Board, or the commendation of the Biblical Repertory to his new work, the Bible and Politics! If not, why is such impression made?

But to the point. The fact asserted by me, Dr. Scott denies—on page 18, he says, "I regret that an effort has been made to show to those unacquainted with us, that the type of the church is to be found 'in stout battle in defense of the Bible in schools; in defense of laws for the better observance of the Sabbath, and for the suppression of Sunday mails'"—again—"whatever dictatorial utterances of individuals, or Presbyteries, or Synods, may be made on the subject, in the light of Presbyterian history, it will be found to be something absolutely *new* (italics his) in her policy to wish to compel the use of the Bible by law in Public schools." This startling assertion, the Dr. attempts to maintain by referring to general principles in our Standards, and to resolutions of the General Assembly, such as "God alone is Lord of conscience," "all Synods and Councils may err,"—"no church judicatory ought to pretend to make laws to bind the conscience"—"that this General Assembly do maintain, that it is the undeniable right of all men to worship the Creator according to the dictates of their own consciences," &c., &c.—By a process of reasoning, peculiar to this Tractate, the Dr. attempts to apply these principles to the action of our church in relation to the use of the Bible in schools, while they have no more to do with the historic fact than they have with the man in the moon. Did the framers of our Standards, when they said "God alone is Lord of conscience" mean that therefore His word which can alone enlighten and purify the conscience, shall be withheld from the millions of youth in our land?—When the General Assembly resolved that "it is the right of all men to worship the Creator according to the dictates of their own consciences," did it mean, that therefore, these millions shall be denied the use of the Bible, which alone

teaches men how they shall worship God? or did these framers, and the General Assembly, by all these articles and resolutions, disprove *the fact* that for the last seventy years the Presbyterian Church has been favoring the use of the Bible in schools, has been warring against the Man of Sin, and has been active in securing legislation for the protection of the Sabbath? If not, why introduce these acts as proof?

The General Assembly of the Presbyterian Church embraces thirty-three Synods, and these Synods are composed of one hundred and fifty-nine Presbyteries. The General Assembly, which is the highest judicatory, is a delegated body, composed of representatives from all the Presbyteries. Now, to every one it must be apparent that the opinions, the official enactments and practice of these Presbyteries and Synods, are exactly the sentiments and practice of the whole church. This self-evident truth, Dr. Scott denies, when he ignores "the dictatorial utterances of Presbyteries and Synods;" but his denial does not disprove the fact. Now, one hundred columns of this newspaper would not contain the resolutions, the appeals, and the arguments which from time to time have been uttered by those Synods and Presbyteries. To spread these acts before my readers, even had I access to the several records of the bodies, would be to convert these few numbers into a volume. As a specimen of these resolutions of our church, let me cite the following, which was adopted unanimously by the Synod of New York within the past year. I take that Synod because it is one of the largest, and in point of talent and firm adherence to the Standards, not second to any in the whole church.

"*Resolved, 1.* That the education of children in the schools of the State, requires the most vigorous attention, lest by neglect of the Bible, and those Christian principles which inculcate obedience to the government and respect for law, the public school should lose all moral power, and become subservient to infidelity, Romanism, licentiousness and anarchy."

"*Resolved, 2.* That in the name of our common Christianity, and of public morals, and our civil liberties, founded on the principles of the word of God, and in the name of the God of our Fathers, and in behalf of the Christian families under our care, this Synod lifts up its voice of remonstrance, and earnestly utters its solemn protest against the recent action of the Board of Education, by which the children in thirteen of our public schools have been robbed of their right and privilege of reading the word of God, and calling on Him, in prayer, and that the ministers and people be enjoined to use all lawful means to *restore* the Bible to its place as the basis of all right education."

Similar utterances to these have been made by Synods and Presbyteries ever since the year 1840, when Bishop Hughes and his Romish priests first undertook to drive the Bible from the public schools, by asserting that it was a "Sectarian book," and that the State had no right to legislate

upon the subject so as to interfere with what they called their rights of conscience. And yet Dr. Scott tells us that such action "is absolutely *new* in her policy." Nor will it do to say that this large and intelligent Synod, and others with them, are simply making "dictatorial utterances." These men are many of them old in the church. Many of them are very learned and able men, who understand the constitution of the Presbyterian Church, and how far they have a right to legislate under that constitution far better than Dr. Scott does. But, he may say, "this is only the act of a Synod at best—not the act of the General Assembly"—well, to the General Assembly let us go, for, after all, it is of highest authority. In our system it is the Supreme Court. *Assembly's Digest, Baird's Collection, page 294, Sec. 176, Action of the Assembly of 1854.*

"*Resolved*, That the General Assembly, by affirming the Church to be one of the parties in education, and by acting on that principle in accordance with the practice of all the Reformed Churches, has never denied the importance of State co-operation in this great work, however defective it may be in some parts of the country; but on the contrary, rejoices in the general enlightenment of the masses under the public school system, and hopes that all Presbyterians, besides supporting their own institutions, will continue as heretofore, to be known as the friends of general education throughout the country, and as the advocates of the introduction of the Bible into the Common Schools."—*Minutes, 1854, p 31.*

Thus it appears that the Presbyterian Church, from her lowest to her highest Court, has taken action in favor of the use of the Bible in the schools, and it hence appears that I stated the truth, and that the Dr. is entirely in error.

With respect to the "Sunday Mails," the truth is again with me. In same *Digest*, pp. 801, 802, 803—I cannot give the details at the close of this long article, but will state, that the *first* action is a "Petition to Congress by the General Assembly" itself, praying for the suppression of Sabbath Mails. Said petition was read before the house, and then it was "ordered, That this petition be signed by the Moderator, and attested by the Clerk, and be committed to the Moderator to forward to Congress!" This was done at the Session of 1812, and the prayer was not granted. Again, in 1814, the Assembly prepared a petition to Congress, praying for "the suppression of the transportation and opening of the mail on the Sabbath, to be circulated throughout the Church." "Two thousand copies were printed, and sent to the Presbyteries," and it was ordered, "That each Presbytery be directed to take order that the same be circulated for subscription in all the congregations under their care." This petition was not granted; and again in 1815, the Assembly "adopted a paper on the subject, closing with an urgent recommendation to all the churches to petition." This was not granted; but the Assembly, undismayed, returned

again to the charge, and in 1816, varying its mode of operation, "appointed a committee of one member from each Synod, to correspond with influential individuals in each Congressional District in the United States, to engage their co-operation in circulating petitions to Congress, praying the repeal of the law permitting the transportation of the mail on the Lord's day." And yet, with all this evidence staring him in the face, Dr. Scott "regrets" that I made "an effort to show those unacquainted with us on this coast, that our Church was wont to make stout battle in defense of laws for the better observance of the Sabbath, and for the suppression of Sunday Mails!" Upon this evidence I submit the several points at issue between us; and having vindicated the character of the old Church at home, close this number.

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No. 3.

MR. EDITOR: As already stated, it is my purpose to examine only such parts of Dr. Scott's Tract as in my judgment have a direct bearing on the great moral controversy now fairly inaugurated on this coast. With many of his conclusions I perfectly agree, e. g., I agree with him in deprecating the union of Church and State; in condemning all intermeddling by the Church in mere politics; in denouncing every attempt to interfere with the rights of conscience, and all sayings or doings which may tend to engender and foster sectarian bigotry and strife. I also agree with him in ardent love of country. I ought to be a true American in all my feelings, for I am the sixth generation born upon the soil. In all the Doctor's appeals to his "fellow citizens," he has also my sympathies, always provided there is anything to appeal about. But while I am thus with him in very many of his opinions and conclusions, I differ from him utterly in the premises which he assumes, and in the process by which he arrives at these conclusions, e. g., I agree most cordially that it would be a ruinous and wicked thing to unite Church and State, but don't agree with him that placing the Bible in the schools of the State will effect that union, or in any possible way tend towards it; on the contrary, I hold that it is the very means and the only means by which not only that, but every other evil is to be averted from the State; and I further hold that the strenuous efforts of the Romish Church for the last twenty years, to remove the Holy Scriptures from the Schools, where they have been from the origin of the government, have for their ulterior object that very union which is deprecated by Dr. Scott and me—a vain object, it is true; for so long as paper-mills and printing presses, and public schools exist, so long are our civil and religious liberties safe.

If I understand Dr. Scott's theory it rests on two positions—or if we call it an argument, on two premises, viz: “That *our translation of the Sacred Scriptures, known as the English Bible, is a sectarian book*, and hence ought not to be placed in the schools of a State composed of so many different peoples, because being sectarian, it will interfere with the rights of conscience of Romanists, Mohammedans, Budhists, Deists, and all others who deny its claims to a divine origin. Thus he says, p. 93, “So far as our organic laws can recognize such subjects, has not the Deist or the Israelite a right to call our Bible a sectarian book? and has not the Catholic just as much right to call our version sectarian, as we have to call his a Romish book?”—And on p. 92, he says, “Now, so far as our organic laws are concerned, the Catholics have just as much right to call their version the Word of God, or to force upon us prayers to the Virgin Mary, and the Missal, as we have to call our version the Word of God and force its reading upon them.”

The second position, or premise, is, that the *State is essentially Godless*; for while he says, p. 52, that “both the Church and the State are ordained of God and are of co-ordinate jurisdiction—the one for the spiritual interests of men, and the other for their civil and temporal well-being,” yet on p. 79 he says, “our Government has no Bible. It cannot make one. It does not profess to be able to choose one. It does not profess to believe in any. How, then, can it teach what it has not itself? We may wish it were otherwise, but such is the fact. The Koran, the Hebrew Scriptures, the Douay version, the holy books of the Hindoos, are as much recognized in the administration of an oath as our Protestant Bible.” If I understand the position, it amounts to just this; that God has ordained an institution called government, for the all-important purpose of regulating the social and temporal affairs of his intelligent, immortal, accountable creatures, from which *He has excluded Himself*, if His word, which alone reveals Him be excluded, God Himself is.

Now it is at once admitted that if these two premises be true, the Dr. has the argument, and there is nothing more to be said on our side—for it must be evident to all, that if the State does not recognize God, even in the official oath taken by the President, and Legislators, and the Judges, it must be practically Godless. The Dr. says, p. 74: “when a man takes an oath, simply as a citizen, there is no necessity to use the Bible or the name of God.” “The President of the United States and the Governor of the State can take their oath without the use of the Bible or without calling on the name of God.” Their oath of office, “I do solemnly swear,” etc., according to this theory, need not have any reference to Almighty God the searcher of all hearts; for on the same page he says, “nor is any other catechising as to *whether by an oath they mean an appeal to*

*God*, or a belief in a future state allowed" What a theory! If the foundations are removed what remains? If an appeal to God and a future state be removed, what is an oath worth? Those who read the very able articles over the signature of "Layman," will see this sad theory perfectly demolished. But to the subject. If the State has no God—recognizes no God—appeals to no God, of course it cannot regard, as of any authority or importance, the written Word of God; nor can it, without gross hypocrisy, pretend to teach in its schools what it does not believe or receive. And if, as the Dr. tells us, it has nothing to do with the religious training of its youth, then, so far as I can see, it does not need a Bible. According to this reasoning, the State is verily atheistic. And it is alike evident, that if our English version of the Bible is a sectarian book, it is not the duty of the State to put it into the public schools. If on the contrary, however, both these premises are false, then the whole Tractate falls to the ground, and the argument remains with us; for it is again evident that if the State is an ordinance of God, which recognizes him in its organic laws, and in its unvaried interpretation of those laws, then is it bound to place His revealed will in the hands of those whom it professes to teach. And if our English Bible is a faithful translation of the original Hebrew and Greek Scriptures, then is it in very deed the mind and will of God, and as such cannot be sectarian, but has a right to a place in every school, where God's intelligent creatures are taught; for as well might men attempt to exclude God Himself, as His will whereby He makes himself known—and I may here say that its claims to this divine character must be settled by an appeal to the original, and not "by the vote of Christendom." Is the State a God-ordained, God-acknowledging institution, or is it not? Is the English version of the Sacred Scriptures the very mind and will of God, or is it sectarian? I repeat that the whole controversy rests on these two points. If they are determined in the affirmative, the argument is with the friends of the Bible-in-schools, nor will it be necessary to trouble ourselves or our readers, with a review of whole chapters of appeals, which are based on the opposite and erroneous hypothesis. These two positions, or premises of the Tractate are to be examined, and as I humbly submit, this is all we have to do.

Pressed with the cares and labors of a large and growing pastoral charge, it affords me no common pleasure to find myself relieved of more than half of this examination, and the pleasure is enhanced by the conviction that the work has fallen into far abler hands than mine. Whoever "Layman" may be, it is clear that he is a lawyer, and an able one—that he is perfect master of the subject, and holds a steady pen—with him I leave the State part of the controversy. Thus far his work has been

## NOTES ON DR. SCOTT'S

terribly complete, leaving the Dr. not a hook on which to hang an argument, or even an appeal to his "fellow-citizens." A writer of no common ability who signs himself "Earnest," also appeared in the columns of the *Pacific*, a few weeks ago, on the legal part of this controversy—his arguments, in my opinion, are unanswerable. I will mainly confine myself to the first of these premises, and if my part of the controversy is half as ably conducted as theirs, the cause of truth will be promoted.

The caption of Chapter XV, of the Tractate reads thus :

### "OUR TRANSLATION SECTARIAN,"

and the burden of the chapter is to establish this, as appears in the reading, somewhat difficult proposition. Thus he says, "What is a sectarian book? Is it not one that teaches the peculiar doctrines, policy and forms of worship that distinguish a denomination? And is not this just what we Protestants say our Bible teaches? It may be true, that in all this it is faithful to the original, but that is not the question. It is *our* version, and the use of it that distinguishes us as Protestants, and this use makes it a sectarian book. Why, there was a time when a hat made a Quaker, and a coat a Methodist. They were sectarian badges. And was not our translation made by the special command of a Protestant King? Was it not prepared and published professedly as an antidote to Popery"—again, "nor is it true that it cannot be sectarian, because it was made before there were any sects; for it was made by sectarian divines, and by the special command of a sectarian king, and for an avowedly sectarian purpose"—again, "But I am told, our Bible cannot be a sectarian book, because sectarian books are of human origin; but our translation is just this and nothing else. It was made by uninspired, erring men." Speaking of Protestants, he says, "it seems to me their distinctive translation of the Holy Scriptures is just as much a sectarian book as the Protest of Spires itself, or the articles of the Synod of Dort, or of the Church of England." These extracts fully and unmistakably define the Doctor's position. I agree with him, when he tells us that "it is conceded on all sides that much of the merit of this controversy rests on the character of our Protestant Bible, and the main question is, *whether it is sectarian or not.*" The first thing is to determine the meaning of the words "Sect," "Sectarian," and "Sectarianism." When this is done, it will be easy to determine who are sectarians, and what is a sectarian book.

The Dr. appears to feel the difficulty of the position which he assumes; for to undertake to prove that the English Bible is a sectarian book, according to the commonly accepted meaning of that term, is a fearful enterprise, and one which is likely to shock the feelings, not only of Christians, but of the world at large—hence he sets aside all Lexico-



graphers with whom I am acquainted, all writers and definition-makers, all ecclesiastical commentators, and even the common accepted sense of all mankind, and gives us a definition of his own—a very catholic and comprehensive one truly. The common idea that a “sect” is a denomination of Christians, separated from other denominations by the adoption of certain tenets, and that a “sectarian” is one of such sect he seems to set aside. Thus he says, “when Abraham, called of God, went up from Ur of the Chaldees, he became the leader of a sect \* \* he was then the *sectarist* in contradistinction to the rest of mankind, and the call that separated him from the majority, was a *sectarian* call.” “In relation to the whole human race, all Christians are sectarians, cut off, separated by belief from the largest half. And in relation to Christendom, all Protestants are sectarians, a smaller half or part of the Christian world. Then both Protestants and Catholics, and so also Heretics, Pagans, Moham medans, Hindoos, and Budhists are cut off and cut up into sects.” Now, if the first part of this means any intelligible thing, it is that the old horned devil is the head of the outsider denomination, the “big church,” and that Christendom is a great sectarianism in contradistinction to the greater devilism. Did it occur to the Dr., when making this definition, that Christianity is a creation of God, an original expression of the Eternal mind, from which all devilism has wandered and separated itself? More of this hereafter.

If by this novel definition he expects to avoid the odium which necessarily attaches itself to the attempt to make the Bible sectarian, he fails, for the world will not accept his definition—it cannot stultify itself by denying all the facts in the case, from which the true definition of the term *sectarian*, is derived; it cannot ignore the universally accepted meaning, and turn its own judgment out of the house to accommodate him. Nor can we, much as we respect the Dr., accommodate him by accepting this lexicographical effort, because his definition contradicts the uniform sense of the word; and because it degrades the Bible in use among us; and because it is derived from an entirely false view of the facts in the case—e. g., it is not true that Abraham, by his call was made “a *sectarist*.” He was *chosen* of God to be the father of a chosen race—and it is not true that the call itself was “a *sectarian* call,” for if so, God is a *sectary*. It is not true that the Christian world “is *sectarian*, in contradistinction to the rest of mankind”—it is not true that the English Bible is “just as much *sectarian* as the Articles of the Church of England”—it is not true, as will be shown hereafter, that the Bible is a *sectarian* book, because it contains the accepted tenets of Protestantism—it is not true that the use of the Bible “distinguishes us as Protestants”; it distinguishes us as *Christians*, the Protest of Spires makes us Protestants—nor is it true

that the use of the Bible by sectarians "makes it a sectarian book." The Baptists use it, and their use of it makes it a Baptist book! The Presbyterian's use makes it a Presbyterian book! The Unitarian's use makes it a Unitarian book! Is this the theory? Nor is it true that our "English Bible was made for an expressly sectarian purpose;" very far from it indeed; it was made for the express and avowed purpose of giving the word of the Eternal God in the English vernacular. For all these reasons we must ignore the Dr.'s definition, and hold him to the true one.

My last number was too long. I close this one with the correction of some errors. Dr. Scott assures me that in charging him with "aggression" in the time and manner of his discourse published in the *Times*, I was in error—it gives me sincere pleasure to thus publicly acknowledge the error. He also feels that I have erred in quoting him incorrectly—nothing was farther from my intention; for certainly, to put words into an author's mouth which he never uttered, is the most inexcusable of all literary sins. I can sympathize with him in this ill usage, for he grieved me very much when he misquoted my words, "the State has no right to make itself a party in a sectarian," &c., &c., by substituting *himself* for "*State*," thus making me say what I never meant. The quotation complained of is, where I make the Dr. say, "our English Bible is a sectarian book of human origin, just this and nothing else"—the true quotation is, "our *translation* of the English Bible is a sectarian book of human origin, is just this and nothing else." I most cheerfully make the correction and give him the full benefit of it; but verily, in what way it mends the matter is not apparent to my comprehension, for is not our English "*translation*" of the Holy Scriptures, and "*our English Bible*" one and the same book?

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No. 4.

MR. EDITOR: In our last number we set aside the Dr.'s definition of sect, and sectarian, as contrary to the facts in the case, and to the universal acceptance of these words; we are now to find their true meaning. "A sect," according to Webster, is "a body or number of persons, united in tenets chiefly in philosophy or religion, but constituting a distinct party, by holding sentiments different from those of other men." Sectarian he defines "one of a sect, one of a party in religion, which has separated itself from the established Church, or which holds tenets different from those of the prevailing denomination in a kingdom." Sectarianism, he says, is "The disposition to dissent from the established Church or predominant religion, and to form new sects.

*Johnson*.—"A body of men following some particular master, or united in some settled tenets."

*Richardson*, defining the three words, sect, sectarianism, sectarist, says, "The doctrines followed—the party separated or following a particular or especial doctrine or creed—holding or teaching particular tenets or principles."

Dr. Campbell, in his Preliminary Dissertation, says of the word sect, "We, if I mistake not, *invariably* use it of those who form separate communions and do not associate with one another in religious worship and ceremonies. Thus we call Papists, Lutherans, Calvinists, different sects, not so much on account of their difference in opinion, as because they have established to themselves different fraternities to which, in what regards public worship, they confine themselves. Buck, in his Theol. Dict. says, "Sect is a collective term, comprehending all such as follow the doctrines and opinions of some divine or philosopher." So far as my knowledge goes, this is the only sense in which the words are used. A sect, then, is simply a denomination of Christians separated from others, and a sectarian is a member of a sect or given denomination; thus we say the Methodist, the Presbyterian, the Congregational, the Episcopal sect. All evangelical sects derive their peculiar doctrines, and profess to derive their forms of government from the Bible. Imperfection is a characteristic common to them all. To form an absolutely perfect system of doctrine and church polity would require, in the founders of a sect, a perfect understanding of the Word of God, and such perfection of knowledge never appeared on earth in human form, save in the Word made flesh. Views of divine truth, more or less defective, mark every branch of the militant church.

From these definitions it is plain that a sectarian book is one which contains the peculiar doctrines of a given sect or denomination, and which maintains and defends those doctrines—thus the Methodist Book of Discipline, the Presbyterian Confession of Faith, and the thirty-nine Articles of the English Church, are sectarian books—and indeed any work which strongly advocates the doctrine and polity of a particular church is sectarian. Such are some of the writings of Calvin and Luther, and Wesley, and such are the writings of all ecclesiastical controversialists. All sectarian books were made by sectarian men for a sectarian purpose, and all bear the marks of human weakness; not one is perfect, for the stream never rises higher than its fountain. Such I take to be the true meaning of a sectarian book, nor can any work be truly called sectarian which does not come within these conditions.

It is perfectly plain that such books have no right to a place in public schools composed of the children of different sects. If the English bible

be sectarian, it is so in this sense, and because it is so, must be excluded from our State education. Dr. Scott tells us, "It was made by sectarian divines and for an avowedly sectarian purpose." Again, "There are several different and contradictory versions of the holy Scriptures, and the differences of these versions are sectarian differences," p. 93. On the assumption that the English Bible is marked by these sectarian differences, he insists upon excluding it from public schools. Thus he says, "so far as our organic laws are concerned, the Catholics have just as much right to call their version the Word of God, as we have to call our version the Word of God," p. 92. We admit that a purely sectarian perversion, bearing the name of a translation of the Bible, might be made; in some parts of it, the Romish version made at Douay is a case in point, and we admit that such versions have no place in promiscuous schools; but we do utterly deny that our English Bible is, in any sense, so marked—mere verbal inaccuracies and imperfect grammatical constructions may exist, but the book itself, in its doctrine and spirit, is a simple rendering of the original—the very word of the living God, in an English, instead of a Hebrew and Greek form, and absolutely free from all sectarian taint or bias—we claim all this for our English Bible. For its strict adherence, its loyalty, its fidelity to the original Scriptures we plead—and here we make our stand.

Dr. Scott admits that the original Scriptures are not sectarian, but are the inspired word of God, nor would he exclude *them* from a hearing in any place of education. Even in his comprehensive political charity, he would not go so far as to shut the mouth of God out of complacency to the distorted conscience of the atheist—a being whom God recognizes only so far as to call him "a fool." Now, can these Scriptures, which are admitted to be the word of God, be faithfully translated? If they can, then is the translation the word of God. The Dr. says, p. 92, "It may be true, that in all this it (our translation) is faithful to the original, but that is not the question—it is *our* version," and our use makes it sectarian." We beg the Doctor's pardon, and insist upon his stopping just there, for *that is the precise question*—is it faithful to the original? or is it not? What is translation? Is translation possible? Mr. Paine says, no; *Age of Reason*, p. 31, he says, "How was Jesus Christ to make anything known to all nations? He could speak but one language, which was the Hebrew, and there are in the world several hundred languages, scarcely any two nations speak the same language or understand each other; and as to translations, every man who knows anything of language, knows that it was impossible to translate from one language to another, not only without losing a great part of the original, but frequently of mistaking the sense."

When unable to meet the unanswerable proof for the inspiration of the Bible, all Deists take Mr. Paine's ground and insist that sectarian prejudice has so warped the judgments of the translators, that the original sense is lost—hence they repel the Christian when urging the truths of the Bible upon them, by the charge, “Your Bible is not faithful to the original—it is a mere sectarian book.” Dr. Scott is not a Deist, nor has he any sympathy with their system, but in the case before us he is virtually driven to their arguments. Thus, p. 93, he says, “God is the Father of all men, and his word is for all men, yet there are many different views of the Divine character, and many professed revelations of His will, and several different and contradictory versions of the Holy Scriptures, and the differences of these versions are sectarian differences. The Bible reveals the will of God; it is adapted to man's spiritual wants. But has our government ever said, or have we a right to claim that it ought to decide that these predicates belong to *our version*, and not equally to the Catholics? I think not. The word of God is His gift, \* \* \* but when we come to translate it, and are divided into sects and churches which are distinguished by using different translations, then and for the reason of this distinctive use, if for no other, these translations are all sectarian.”

Translation is “the act of turning into another language,” “a translation is that which is produced by turning into another language.” A translator is “one who expresses the sense of words in one language by equivalent words in another.” *Webster*. The same words are not used, else it would be the same text, but words of the precise import in the language into which the translation is made. Take an instance: *En arke hen ho Logos*, is the original of the inspired text—the English translation is, “In the beginning was the Word.” The Holy Spirit here conveys the glorious truth that in the beginning was the Word. He conveys just that and nothing else; and our translation conveys precisely that and nothing else. Is not this the exact mind of God in relation to this doctrine expressed in Greek characters? and is it not the same mind of God, when expressed in English ones? It is admitted that it is unsectarian when expressed in Greek words, but somehow or other becomes sectarian when expressed in English ones. If the mind and will of God be exactly the same in both expressions, and yet it is sectarian when clothed in the one dress, and unsectarian when clothed in the other, the cause of the strange metamorphosis must be sought for in the languages themselves; the Hebrew and Greek must be inspired languages, and all others sectarian. The object of true translation is to convey the exact mind and spirit of the original, and if these, as in the above instance, are literally rendered, faithfully rendered, the English translation is as truly

God's word as is the original Greek, and is as perfectly free from all sectarian taint as is the original; for I repeat, that if the mind and spirit be retained, it matters not whether it be expressed in Greek or English, in German or Hebrew. The same principle holds true everywhere. When a Frenchman of undoubted veracity testifies in one of our courts, and his testimony is rendered into English by an interpreter, the testimony is accepted by the jury; the only question is as to the capability and integrity of the interpreter—assured of that, though they understand not a word of French, the jury acts upon the evidence. A treaty is formed between our government and that of Prussia; the original copy is in the German language, and an exact translation of all its provisions is made into English, and like the original, receives the signatures of the contracting parties. The one copy is on file in Berlin, the other at Washington—to all intents and purposes they are the same, and the English translated copy as truly contains the terms of the treaty as does the original German one. And thus is it in the great question before us—let us have the mind and will of God, and it matters not by what visible characters and words it is conveyed. Translation then, the objectors to the contrary notwithstanding, is possible—yea, it may be real and true, so perfectly so as to be the exact transcript of the original. Such we claim our version of the Bible to be, and this claim is sustained by the following from among many other considerations. On a field so wide as that which this subject opens before us, extended detail will not be expected. To indicate the several sources of proof is all that will be necessary, and, indeed, all that the limits to which I am confined will allow.

The translators of the English Bible were born and educated in a marked period of the world. The hundred years which comprise the last half of the 16th, and the first of the 17th century, were years of mighty men and mighty minds—of profound scholars, and earnest, sound thinkers. About the general period when the translators were born, the grave was just closing over the master spirits of Germany and Switzerland, and Scotland—Luther, Melancthon, Calvin and Knox. Their mantles rested on the age which followed them. The stern adherence to the text and spirit of God's word which eminently marked the old Reformers, was the leading characteristic of all that generation which succeeded them, and to which the Translators belonged. Those men stood in awe when they interpreted the Sacred Scriptures, for as yet the reckless spirit of rationalism had not developed itself. The influence of the age had much to do in preparing the men who made our translation of the Bible. Thus much in general. The particular considerations relied upon are the following. 1. *That the translators were men eminent for piety and learning.* They were chosen men out of a generation eminent for learn-

ing and piety. King James, aided by the wisdom of his wisest ecclesiastical advisers, selected the very first scholars and divines in the realm. 2. *From the number engaged in the work.* Fifty-four were chosen, forty-seven of whom were actually engaged. 3. *From the length of time, devoted to the translation.* "They entered upon their task in 1607, and for three years were closely engaged in the work." 4. *From the method adopted and the care evinced in the prosecution of their labor.*

The learned Selden says, "The translators were divided into six companies who met at different places, having their respective tasks assigned them. That part of the Bible was given to him who was most excellent in such a tongue, and then they met together, and one read the translation, the rest holding in their hands some Bible in either of the learned tongues, or French, Spanish and Italian. If they found any fault they spoke; if not, they read on. When the work was completed by these six companies, the whole was revised by twelve of the translators, two having been chosen out of each of the six companies. The copy thus revised was again examined by two very learned men, Dr. Smith, and Dr. Bilson, Bishop of Winchester." Under such a process as this, running through so great a length of time, and with so many checks and guards, the introduction of any serious error would seem to be impossible. And in this connection we may add, that the translators were relieved from all pastoral or temporal employments, were placed under salaries paid from the treasury of the State, and were required to devote their whole time to this single work. And here also let the express purpose and object of this undertaking be kept distinctly in view. That purpose and object was *not*, as Dr. Scott says, to produce a version "as an antidote to Popery," or "for an avowedly sectarian purpose;" very far from it indeed. If we are to credit the solemn word of all the parties concerned in that great business, King, counsellors and translators, their object, and their sole object, was to make a literal translation of the word of the Eternal God, in the English language; a translation literally faithful to the original, and free from all possible sectarian tinge. Thus they purposed to open the fountain of living waters to millions of then living men, and to hundreds of millions yet unborn. Far removed from all "sectarian purpose" were those men. Their object was comprehensive, high, holy, God-like.

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No. 5.

5. *The uniform testimony of all truly learned men for the last two and a half centuries.*

This testimony respects both the ability of the translators and the faith-

fulness, the unsectarian character of the version. Our limits will allow but a few instances. Dr. Geddes, a learned Roman Catholic Divine, says, "If accuracy, fidelity, and the strictest attention to the letter of the text, be supposed to constitute the qualities of an excellent version, this of all versions must be accounted the most excellent. Every sentence, every word, every syllable, every letter and point seem to have been weighed with the nicest exactitude, and expressed either in the text or margin with the greatest precision. Dr. Adam Clarke says, "The translators have seized the very spirit and soul of the original, and expressed this almost everywhere with pathos and energy." Dr. Gray says, "The English Bible is equally remarkable for the general fidelity of its construction and the magnificent simplicity of its language." Dr. White, Hebrew Professor at Oxford, says, "General fidelity to its original is hardly more its characteristic than sublimity itself." An eminent European scholar testifies, "that it far surpasses any other version in the characteristic qualities of simplicity, energy and purity of style, and in uniform fidelity to the original." *Enc. Brit.* Our own Fisher Ames, in an essay of his, urging the importance of using the Bible as a school book, says, "In no book is there so good English, so pure and so elegant; and by teaching all the same book, they will speak alike and the Bible will justly remain the standard of language as well as of faith."

The *Princeton Review*, in repelling a charge "that our English translation was not taken directly from the original," says: "That is to say, the translators have published a deliberate falsehood in the very title page of their great work; and either falsehood or less information concerning them than we now possess, must be charged upon those of their contemporaries who have represented them as the most learned, pious, and venerable company that was ever united in one great literary undertaking. There is no fact in history better ascertained than that the men called upon in 1607 to translate the Holy Scriptures were men eminently qualified for their task, and that they did translate directly from the original Hebrew and Greek"—again, "all of them were men of learning and ability, and some of them pre-eminently and proverbially so." Speaking of the point which is now at issue between Dr. Scott and myself, the same *Princeton Review* says: "The work, therefore, is not sectarian in its origin or its character. It is in the strictest sense a national translation. It is the acknowledged and established standard of every denomination except the Roman Catholics and some few Unitarians." Dr. Spring says, "It has stood the test of two hundred and thirty years' experience, and is a noble monument of the integrity, fidelity, and learning of its venerable translators." The same testimony to its fidelity to the original, and its entire freedom from all sectarian bias, has been rendered by the great and



learned men of the world for more than two hundred and fifty years ; among them are Selden, Lowth, Horsely, Middleton, Doddridge, Beattie, Henry, Scott, Clarke, Stewart, Hodge, Alexander, together with Bengel, Havernick, Hengstenberg, and a host of eminent divines of other countries and other communions. This concurrent testimony of such men, living all along the line of time from 1611 to 1859, cannot be set aside—and whatever Dr. Scott or his friends may think or say to the contrary, this one mighty judgment outweighs the unsupported assertions of ten thousand such Tractates as the one now under review. These men say—they all say, that the translation is faithful to the original—and being so *is not sectarian*.

6. *From the ordeal by criticism through which it has passed for two hundred and fifty years.*

Foes and friends alike have subjected it to the most searching tests of criticism. Romanism led the way, and after a thousand vain attempts, abandoned the work as hopeless, and took the only alternative of placing it on the "forbidden list," and commanding its subjects not to read it. The efforts of Romanists for the last twenty years, to exclude it from American schools is but a part of this plan ; and deeply is it to be regretted that a diseased political charity should induce a few good men to aid them in their unholy work. Deism, indeed infidelity in all its forms, assailed the translation next, but assailed it in vain. Semi-infidelity next followed. That form of unbelief was not infidel enough to deny the inspired claims of the original Scriptures, but it disliked many of the doctrines contained in the English Bible, and hence the many charges of false renderings, interpolations, and omissions which, from time to time, have been made ; but when subjected to the rigid standard of the old languages of Moses and Paul, there stands the English version unmoved : "as meets the rock a thousand waves," so meets it all their assaults. All this while, too, it has been subjected to the most thorough trial by its friends. The profoundest scholars, the most accomplished critics—men, such as those already named, have tried it again and again ; and with the exception of a verbal error, or an improper grammatical construction, or a word here and there which has changed its meaning since the translators' days, there still stands the English version, a monument of fidelity, a transcript of the Word of God. Never, since the world began, has any book been so thoroughly tested by friends and foes, and from the crucibles of infidelity, and true scholarly criticism alike, it comes forth pure as gold tried in the furnace.

7. *From the fact that the evidence of the fidelity of the translation is cumulative.*

Every age strengthens the evidence. Gaussen, speaking of translations

of the Scriptures, says: "They have always there by their side, the divine text to be corrected and re-corrected from this eternal type, until they shall *become entirely conformed to it*. The inspired word does not leave us; it is still here upon earth, such as God primitively dictated it. You may then study it for ages, to submit to its unchangeable truth the work of human translation. You can to-day correct the versions of Osterwald and Martin after a hundred and thirty years, by bringing them more rigidly to their infallible standard. The phraseology of God, as He dictated it in Hebrew or Greek in the day of the revelation, remaining with our human versions, and our dictionaries in your hand, you can return there and examine from age to age the infallible expression which He was pleased to give to His divine thought, until you are assured that the language of the moderns has truly received the exact impression of it, and has given you, for your use, an exact fac-simile of it. Say no more then—of what use is a divine revelation to me if I must use a human translation? If you wanted a bust of Napoleon, would you say to the sculptor, of what use is it to me that your model has been moulded at St. Helena, upon the very face of Napoleon, since after all it will be but *your copy*?"

8. *From the universal consent of the whole Evangelical Church which uses the English language.*

The *Princeton Review*, speaking of the English Bible, says: "The work, therefore, is not sectarian in its origin or its character. It is in the strictest sense a national translation. It is the acknowledged and established standard of every denomination except the Roman Catholics and some few Unitarians." And such is the fact; it has been the book alike of the old Puritan and Covenanter, of the Presbyterian and Congregationalist, of the Methodist and Baptist, of the Lutheran and Episcopalian, and of all the Evangelical Church of God. Differ they may and do in forms of government, and modes of expressing their peculiar tenets, but they all have one and the same Bible. And in the ages past, the millions in these churches have been guided by its precepts, have been sustained by its consolations, have died resting on its promises, and are to-day singing the song of Moses and the Lamb in that heaven to which it led them.

Finally, *from the fact that during all these two and a half centuries, the English version has been honored and blessed by the Holy Ghost to the conversion of sinners, the sanctification of saints, and the building up of the church of Jesus in all its forms*. Is it probable, yea, is it possible that the God of truth and purity would have thus honored and blessed a sectarian version—one tortured from its original purity for sectarian purposes? Has he so honored the sectarian version of Douay? Has the Romish Church been built up in faith and love and holiness by the blessings of

the Holy Spirit, on the teachings of that version? In my view, it is little better than solemn mockery of Jehovah, to assume that He would thus acknowledge a mere sectarian perversion of his Holy Word. On no page of history, ancient or modern, can the instance be found in which he has done so. From all these considerations the following facts are made out :

1. That translation is possible.
2. That it can be so perfectly done as to contain the very mind and spirit of the original.
3. That our English Bible is such a translation, and does contain the very mind and spirit of the word of God.
4. That being the very word of God, it is not sectarian in the sense charged in the Tractate, nor indeed in any other sense.
5. That being thus unsectarian, and the very word of God, it has a right to a place in every school in which God's creatures are taught. And from these facts we arrive at the following conclusion, viz:

That in order to make the caption of Chapter XV of Dr. Scott's Tractate true, it must be amended by the insertion of the little word *not*, "our translation not sectarian." This is what we undertook to prove. Here, it seems to me we might rest our proof, and call on the Dr. to retract his charge, or failing to do so, to point out the chapter and verse, yea the single sentence, in the English Bible, where the original text has been sacrificed to meet the sectarian dogmas of any branch of the Church of Jesus. We solemnly aver that neither he, nor any other living man, can point to such a place; for it is not in the book. Hence the charge is wholly gratuitous—logically considered it is a sophism; historically, it is false, and religiously, it is unwise and bad. Let us, however, follow the matter a little farther, and see some of the consequences and workings of this sectarian theory. All will admit that those premises must be erroneous which logically carried out lead to evil, only evil, and that continually. Has the Dr. ever looked the unavoidable consequences of his theory in the face? I think not. If I am not much mistaken, he is occupying the exact place in which he alleges we advocates of the Bible in schools stand—p. 22, he says, "It is an old Latin proverb, that great men are not always wise. It is certainly true, that some men of liberal education and amiable disposition are not always logically consistent. They are not able or willing to carry out their own principles to their last consequences, or to abide by them on all questions."

Let us look at two or three of his positions, and see whether he can carry them to their last consequences—on p. 96, "The word of God is not sectarian as it came from the Eternal mind, but as soon as it is touched and apprehended by a sectary, and in the degree that it is adopted by him in a sense different from that put upon it by others, in

the same measure does his apprehension or rendering of it become sectarian,"—*i. e.*, a *true* translation of the word of God becomes sectarian in the exact measure of its difference from a *false* one. The true English Bible is sectarian in the measure of its difference from the untrue Douay one; our translators apprehended the word of God on the subject of a Trinity, in a sense different from the Unitarian, and the true apprehension makes the eternal truth of a Trinity sectarian! Does the Dr. abide by that consequence? On p. 96, he says, "The word of God is not sectarian," and on p. 91, says our translation of that word, "is just as much sectarian as are the Articles of the Synod of Dort, or of the Church of England"—*i. e.* our English Bible is, in this respect, as far removed from the word of God as are the Articles of the Church of England; with millions of evangelical Christians, the Articles of that Church are of no authority; they never adopt them, and yet get to heaven. Can they do so without the Bible? The Dr. asserts that our English Bible is sectarian in so high a degree as to be justly excluded from schools composed of the children of Romanists, Deists, and unbelievers in general. If so, the same degree of sectarianism will constitute a justifiable bar to its admission by the parents of those children—*i. e.*, when Dr. Scott offers his Bible to a Deist or other unbelievers, they are justifiable in rejecting his kind offer on the ground that it is so truly sectarian as to be unworthy of notice! They say to him: you admit that our rights of conscience justify us in rejecting this book in our schools, and the same dictates of conscience will justify us in rejecting it now when offered by you, for if it be not the very word of God we will not have it. How about this logical sequence? I know precisely what the Dr. would say to that man—he would say, "Sir, you are all wrong in this matter; this is God's word, and if you reject it on any of these subterfuges about rights of conscience, you will lose your soul;" but I do not so precisely know what he would say, when this unbeliever would ask him: Why not, then, give this same book to my children who are in the common school? if my rights of conscience are all subterfuges when the case is my own, how can they be allowed in the case of my children? if this Bible be the very word of God to me, how can it be sectarian to them?

The reasonings of this whole sectarian chapter, and, indeed of the greater part of the book, are of a most unhappy tendency. How sad their influence on the minds of the millions of Christians, who are unacquainted with the original languages of the Holy Scriptures; all they have is the English Bible; they believe every line of it; they have hitherto known it as the simple, unadulterated word of God, and built all their hopes of eternity on the system of redemption which it reveals. How sad to have this child-like faith and confidence shaken by such

assertions and reasonings as are found in this chapter, and how sad, yea, how ruinous the influence upon unbelievers; though the author means it not, the whole tendency of this theory is to degrade the English Bible from its high stand, and to render it an unreliable book, which has been tainted by the unhallowed touch of a sectary.

The Dr. gave us a chapter on "axe-handles." Whether, as he alleges, we Bible-in-school men have put a handle into the axe or not, one thing is most certainly true, that by this sectarian admission, he has put a handle into the axe with which Romanists and Infidels will assail the carved work of God's sanctuary with a will. Hitherto the Bible has been the great aggressive weapon of the Church of God in all its conquests. The Church has its defensive armor, its helmet of salvation, its breast-plate of righteousness, its shield of faith; but its offensive weapon has been the sword of the Spirit which is the word of God. With this wondrous weapon of the Spirit it has gone forth conquering and to conquer; relying confidently on its efficacy, it has attacked infidelity and error in all their forms; but if this sad theory be true, it is the sword of the Spirit, the word of God no longer; and so may infidelity plead. But it is not true. I do not charge that Dr. Scott can, or does abide by these logical and moral consequences of his theory; very far from it. I relieve him on the ground "that great men are not always wise, and that some men of liberal education and amiable disposition are not always logically consistent, and are not willing to carry out their own principles to their last consequences."

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No. 6.

Before leaving this part of the subject, let me call the attention of all those who love the English Bible, and who are unable to read any other, 1st. To the fact that the attempt to weaken their faith in that old book, by declaring it sectarian, has been wholly unsupported by evidence or by arguments. The Dr. asserts that it is sectarian, but don't prove it; he asserts that it is Protestant, but does not prove it; he classes it with the Articles of the Church of England, but gives no proof that it belongs there—in a word, he *asserts* everything and proves nothing. The only thing he offers in the shape of an argument on the subject is, that because Protestants use it, it is therefore a Protestant book, because sectarians use it, it is therefore a sectarian book! As I said before, on the same principle it is a Presbyterian book because Presbyterians use it, a Unitarian book because Unitarians use it, a Baptist book because Baptists use it; this requires no answer, because it is no argument. 2. To the

fact that the evidence that this English Bible is a faithful translation of the original scriptures, is overwhelming in amount and character, and such as no power of earth can set aside or even weaken. In view of these facts, let them possess their souls in quiet, and continue as heretofore, to love and cherish, and confide in the good old book as being, in very truth, the unadulterated word of God. When the new theory is urged against their faith, let them point its advocates to the undivided testimony of all truly learned men for the last two hundred and fifty years; to the unanimous voice of the Evangelical Church during those years; and above all, let them point to the endorsement of the book by the Holy Ghost, as his instrument in converting sinners and sanctifying saints. On these strong grounds let them rest and stand in their lot.

It may be said, that in this examination I have overlooked the many asseverations of attachment to the English version—the many expressions concerning its excellency which are made by the Dr. The consideration of these professions and caveats did not belong to the argument; but let me here say that I do not doubt the sincerity of these professions, and, indeed, they are necessary to save the whole theory from the just charge of utter, absolute infidelity. But while they are doubtless sincerely made, and while, as a sort of Christian baptism, they may serve to lighten the shock which every Christian mind must experience in reading his theory, they will not be considered and weighed by the Romanist and Deist, or by any other enemy of the English Bible. All this class will rest their arguments on *his admission, that it is sectarian and not the unadulterated word of God*; and indeed if this admission be true, the caveats and professions will be of no weight with these men. Why should they? If the Bible, pure as it came from the Eternal mind, has been weakened by the touch of a sectary, it is the Bible no longer. That admission gives up all.

Chapter XVI. of the Doctor's Tractate may be considered as a corollary to chapter XV, and requires a careful examination, for it is evidently considered by him as of great importance to this controversy. The caption is, "*This question a Political Shibboleth.*" The moral of the chapter is from Æsop, and tells of a woodman who asked the forest to give him a handle for his axe; the homely ash gave him a handle, whereupon the woodman began to cut down the trees; and the oak whispered to the cedar, "The first concession has lost all." The heading of one of the pages reads thus, "*Priests bad Politicians.*" It is the beauty of a caption, or heading, or even of a vignette, that it convey or foreshadow some truth pertinent to the subject in hand. In this respect, those which preface and adorn this chapter have a substantial value; for, as we have already seen, our friend, the Dr., has himself been pretty extensively engaged in the axe-handle business—indeed he assigns as one of the rea-

sons for writing this Tractate, that all the tracts and books that he has met with on this subject are in favor of the views which he is opposing; and as he is repeatedly asked to recommend some sound treatise on the subject, and as the Christian world has, by default, neglected to produce such an one, he writes this Tractate. The plain English of it is, that the opposers of the Bible-in-schools and of Sabbath laws, lacked arguments, had no handle for their axe, and the Doctor kindly furnishes them one. In referring to this reason for the publication of the Tractate, "Layman," in the most mild and polite manner possible, intimates that "if no professed believer in Christianity has printed or published the views contained in this book, the fact should certainly teach modesty and candor, both in author and reader, before, adopting them." I concur.

The Dr., it seems to me, has also most fully verified the page-heading; for while he has proved himself a good politician by taking the *popular* side of this question, he has proved himself a very bad one in all matters which concern the fundamental laws and well being of the State, even to the sapping and mining the very foundation stones on which the great fabric rests, by denying it a Sabbath, a Bible, a religion, yea, even a God. If this be not the work of a bad politician, we know not what is—we agree with Layman, that "It strikes at the foundation of all social order and is radicalism run mad." But to the subject. The Dr., having, as he supposes, proved the English Bible to be sectarian in so high a sense as to justify its exclusion from the schools of the State, attempts to prove that the effort to place it there, is a sectarian and political one. The object of this is to throw odium on the friends of the measure, by making the impression that this is a new thing, gotten up by sectarian bigotry.

On pp. 15-16, he says: "There is a solemn league and combination virtually made between a considerable part of the Protestant Churches on this coast, and isms of various shapes and colors, to agitate the State, and force the Legislature and the School Directors to use the Protestant translation of the Holy Scriptures in the public schools." If this means anything, it is, that the friends of the Bible have gotten up some new agitation, hitherto unknown to the Constitution of the State, and to the history of the past. The "isms and colors," as they express no truth, are probably thrown in for euphony. Nor is the agitation confined to this coast, for speaking of the general subject, he says, p. 14: "After all, this question, then, about the Bible in schools, is a sectarian one; so I have always regarded it," and on p. 97: "If I have apprehended the true nature of this controversy, it is a sectarian one, and is rapidly becoming a political one." The positions taken are, that the *movement is sectarian and political—a mere political Shibboleth*. As usual, through all this book, he assumes the truth of these positions, or what is worse, adopts them, not

only on evidence wholly defective, but in the face of overwhelming evidence to the contrary. Having thus laid his foundations, he suddenly rears upon them a sad superstructure of supposed evils which are likely to follow, viz: the duty of the State to protect all religions alike will be impossible; the fundamental laws will be violated; the peace of the various sects will be disturbed by creating invidious distinctions; "any law that would require our Bible to be used against the conscience of a teacher, or tax-paying citizen, would be regarded as illiberal;" and what, in his opinion, would be worse than all, the Bible would become a watchword. The motto on some of the New York banners, "*We wont give up our Bibles,*" he regards as "an awful degradation of God's Revelation, making the word of Life and Peace a firebrand and torch of war." To avoid all these sad evils, the Doctor's plan is just to give up the Bibles, take them out of the State schools at once, let the wishes, the convictions, the consciences of twenty-five millions of American citizens quietly yield to the demands of two or three millions of Romanists and unbelievers. Accompanying these details of coming evils, the chapter contains the usual affecting appeal to our fellow-citizens, p. 97: "Yes, fellow citizens, this is just the serious part of the matter, that if you open this subject to legislation, you carry the word of God to the polls, and make it a political, sectarian and partizan cry. Do you wish this? I am persuaded you do not." By way of digression—the Dr. surely ought to know that it was the English Bible which those New York fellows said they would never give up, and according to his theory the word of God, which came pure from the Eternal mind, has by process of translation into English, become a mere sectarian book. So, after all, the evil he deprecates does not exist, for it was not the Word of God, but simply the "Protestant Bible."

Any common reader—indeed, a careful reader of this Tractate—will receive the impression that the friends of this measure are attempting to inaugurate a system which is unknown to the Constitution, the laws, and the usages of the country—a system which will inevitably lead to the union of Church and State. In the appeal just quoted, that exact impression is made. "Yes, fellow-citizens, \* \* if you *open* this subject to legislation," &c., this implies that hitherto legislation has been *closed* to it; and all the odium which necessarily belongs to a new measure of doubtful character, and especially if advocated by the religious portion of the community, is attempted to be fixed upon this one. It is hard to believe that Dr. Scott intended to make this impression, but it is made. Our dear fellow-citizens are put on their guard, everywhere in these pages, against an insidious attempt to unite Church and State. Now the simple truth is, that the measure is old as the colonial governments, old as the State governments; and the ground which the Romish Church and Dr. Scott



have taken against this old usage is *new*, and the only new thing about it. In proof of both these facts, let me refer to what is said in my published sermon on this subject.

I may say here, that the opposition to the Bible in the public schools is of *recent origin, and was wholly unknown in the days of our fathers*. Dr. Cheever says, "The whole history of the system of common schools in our country, is the history of the efforts of men who desired to *place the Bible and religious truth in them as the foundation of them.*"

It is important to my present purpose to prove the truth of this declaration, because uninformed persons suppose, and designing men aver, that all this cry about the Bible in schools is a *new thing*, gotten up by some men of narrow and sectarian views.

Let me say to such persons, that, while our public school system dates back to 1630—two hundred and twenty nine years ago—the idea of excluding the Bible, which had been read in them during all these years, was first *publicly* urged about 1840. Private objections had been made, years before, by some prominent Deists in New England; but the first public organized opposition, with which I am acquainted, was made in New York, about 1840. The same author, just quoted, says, "A severe war began to be waged between those who maintained the natural and legal right, and moral necessity of the Scriptures in the schools, and those who endeavored, at the instigation of the Roman Catholic party, to exclude them. Laws were passed, in 1842 and 1843, containing the section forbidding sectarian teaching and books. Under cover of these laws, the effort was driven on to banish the Bible, as being itself a sectarian book, no statute having been passed to *prevent* its banishment; because it had never been dreamed that the time would come when such a statute would be necessary: the Scriptures having been read daily, in all the public schools in New York, for forty years, without complaint or opposition." Under cover of this law, the Bible was banished by many of the School Directors; "but, in answer to an eloquent appeal by Col. Stone, then Superintendent of the State schools, the Legislature of 1844 amended the School Law, by an enactment *prohibiting the Board of Education from excluding the Holy Scriptures from any school.*"

Such was the origin of the organized opposition to the Bible. But, more fully to confirm our position, let us turn to the history of the school system; and I am obliged to the same author for my facts here.

As early as 1656, Connecticut added *explicit* laws to her general school laws of 1630, by which the officers were obliged "to take care that all their children and apprentices should be made able duly to read the Sacred Scriptures in the English tongue; and in some competent meas-

ure to understand the main grounds and principles of the Christian religion necessary to salvation."

Chancellor Kent says of the Puritans: "Their avowed object was to found republics on the basis of Christianity, and to secure religious liberty under the auspices of a commonwealth. With this primary view they were early led to make strict provision for common school education. *Indeed, the Bible, at that time, was almost the sole object of their solicitude and studies.*" Thus it appears that, in Connecticut, where the common school system originated, the Bible and Schools were one and inseparable. *In fact, the schools were established for the express purpose of teaching the Bible to "all their children and apprentices."*

Massachusetts speedily followed the example of Connecticut, and, in 1647, adopted a law, the preamble of which reads thus: "It being the chief object of Satan to keep men from a knowledge of the Sacred Scriptures, therefore, to the end that learning, in Church and Commonwealth, may not be buried in the graves of our forefathers, it is ordered by this court," &c. Then comes a law, everywhere marked by the same care to secure Bible teaching and personal piety. In time, a similar school system was adopted by the other New England colonies, having the same great object in view: the study of the Bible and the diffusion of its principles. Respecting New York the same author says: At the close of the Revolution, Gov. George Clinton recommended the adoption of a common school system, and urged upon the Legislature the vital importance of such a system, as a means of training up the young in the religion of Christ and in the morality of that religion: "since piety and virtue are generally the offspring of an enlightened understanding." From 1795 to 1802, various measures were adopted and revenues appropriated for this object. In 1803 he again commended the system, because of "the advantage to morals, religion, liberty and good government, arising from the general diffusion of knowledge." In 1804, Gov. Lewis takes the same ground respecting the public schools, as likely to "*foster religion and morality.*" In 1810, Gov. Tompkins used very nearly the same language. The law of 1812 takes even higher ground, and recommends the use of the Bible, not for devotional purposes alone, but as a text-book.

New Jersey and Pennsylvania followed New York, and on precisely the same ground. The Board of Directors of the 4th section of the Philadelphia schools, expressing the general sentiment of the State, thus speaks:

*Resolved*, That we will *ever* insist on the reading of the Bible, without note or comment, in our public schools; because, 1st, we believe it to be the Word of God; and, 2d, because we know such is the will of the vast majority of the Commonwealth.

*Resolved*, That we look on the effort of sectionists to divide the school

fund as an insidious attempt to lay the axe at the root of our noble Public School System, the benefits of which are every day manifested in the training of youth.

*Resolved*, That we will use all proper means to insure the continuance of the reading of God's Word in all our Schools, and we respectfully call on the members of the Legislature to respect the rights of the great majority.

From this brief historic sketch of the origin, the object and the uniform practice of the free schools, it is plain that the "idea of divorcing the Bible from these schools" was never entertained for one moment. And it was not until the Romish element began to work, about the year 1838 or '40, that the baneful idea was publicly suggested and urged. When this foreign power, which never had the Bible in its own land, and which had kept the common people in darkness and ignorance, came hither, it could not stand the light, and the moment it felt strong enough, it demanded that the Bible should be excluded.

I well remember the universal burst of indignation with which the impudent demand was met. It was then that Mr. Choate, in one of his public orations, exclaimed, "What! banish the Bible from our public schools? Never! so long as a piece of Plymouth Rock remains, big enough to make a gun-flint out of!" That rings of Putnam, and Warren and Stark and Bunker's Hill. Yes, and it is in unison with the great American heart.

We have now shown that the effort to restore the Bible is not a new thing, gotten up by sectarian bigotry. So far from it, *it is the effort of the American people to maintain a religious privilege which they have enjoyed for two hundred years, and which intense sectarian bigotry is attempting to snatch from them.*

Such is the true history of this case. The colonial fathers, the men of the Revolution, the members of the Continental Congress, and the framers of the Federal Constitution, one and all believed that Christianity was a part of the common law of the land, and that the English Bible was the word of God; acting on that belief, they placed it in the schools of the colonies, and afterwards in the schools of the State. It never occurred to them that by so doing, they were taking the first steps to a union of Church and State. Is it possible that all these fathers of the country, and all American men, up to the year of grace, 1840, have been wrong, and did not know it? Did the framers write a Constitution and not understand it? Has the Church and the State, ever since 1789, been under process of articulation, in plain English, getting themselves united, and nobody found it out, or can even now show the joint? All this, and very much more of the same sort must be admitted, if the doctrine of the Tractate is true.

This piece of history, while it disproves the charge that this is a new measure, at the same time cuts up by the roots the allegation that it is a sectarian and political one; for it clearly proves that from the origin of the government, men of all sects, of all faiths, of every political shade of opinion, alike concurred in placing the Bible in the schools of the State. However much and warmly they might differ on all other subjects, on this one they were a unit. With what face, then, is it gravely charged that the measure is sectarian, and rapidly becoming political? Such a sweeping charge against the men and the measures of the past, ought to be sustained by some evidence, it surely ought to rest on something stronger than mere assertion; yet not one syllable of proof is given. Respecting the present Bible movement, the Dr. does attempt to furnish some testimony to sustain his allegation. Let us see what it amounts to, and, at the same time, see what is the character and amount of the rebutting testimony. The fact is familiar to all, that last year, through the influence of the Jesuits of New York, the Directors removed the Bible from thirteen of the common schools of that city. As might have been expected, this bold innovation of long established usage aroused the citizens. Regarding it as a subject of vital interest, they exercised the rights of freemen, and at the fall election chose a set of Directors who were pledged to restore the Bible to its place. The contest was sharp and the victory was complete, so entirely so, that even Bishop Hughes gave it up, and condescended graciously to admit, that since the people were determined to have it so, they might have the Bible without further opposition from him. This New York case Dr. Scott brings forward in proof that the present movement is sectarian and political; he introduces it on this wise, p. 97: "If I have apprehended the true nature of this controversy, it is a sectarian one, and is rapidly becoming a political one. The New York correspondent of a San Francisco paper begins an article in this style: 'Excluding the Bible from the public schools is got up to aid the election of another set of officers, whose duties if elected, have no more to do with the subject than with the conversion of Japan. And yet the papers are filled with inflammatory appeals, as if a new crusade against the Bible in the schools had been got up in order to place the financial department of the city government in the hands of a particular set of individuals. Anything that will divert the attention of the people from the personal character of the candidates, is countenanced and kept alive by their supporters. And so the city is misgoverned, and fraud and dishonesty flourish in most of the bureaus of its government.' This is the testimony of an eye-witness of things in New York. Observe, also, the

motives to which he ascribes this crusade, and what he says of the corruption and fraud of the city government, notwithstanding the Bible-reading and praying in so many of its schools." This is Dr. Scott's witness. He testifies that the whole effort to restore the Bible to the schools, was one devoid of true principle, and simply for the purpose of electing another set of officers, and diverting public attention from the character of the candidates. Who is this solitary witness, on whose unsupported testimony we are called to believe all these unprincipled things? What is his name? Where does he live? What are his opportunities for forming correct opinions, and what is his character for veracity among his neighbors? He is the New York correspondent of a San Francisco paper! This anonymous writer embodies the entire testimony in relation to this great moral and civil question, which agitated not only New York, but the whole union; and he testifies not only to the fact, but also to the *motives* which governed all the actors in that great struggle! On this unsupported witness Dr. Scott rests his proof, and finishes the chapter by an appeal to his fellow citizens, and with some arguments from the nature of the case and from its supposed probable consequences. Let us look at the testimony on the other side. What is its amount, what is its character?

1. Opposed to this solitary witness, we have thousands and tens of thousands of men in New York, who testify that their motives were pure—that their sole object was to restore the Bible to the schools which had been deprived of it.

2. We have the entire religious press of that city, embracing such papers as the *New York Observer*, *Christian Advocate and Journal*, *Independent*, and *New York Evangelist*, testifying directly in the teeth of this solitary witness, and declaring that the sole object was to restore the Bible to the schools which had been deprived of it.

3. On the same side we have the Synod of New York, one of the largest and most influential bodies belonging to the Presbyterian Church in the United States—a Synod composed of one hundred and sixty-nine ministers, and having under its care one hundred and twenty-nine churches, each of which is entitled to a lay member in the Synodical meetings. Making all ordinary allowance for absence, there ought to be two hundred faithful and able ministers and elders present at a regular session. These men, members of the same church to which Dr. Scott and I belong, were on the ground; they lived there; were "eye-witnesses" of the cause and progress of that Bible movement; and when assembled last fall, as a court of Jesus Christ, and under a deep sense of their accountability to Him for all their motives and acts, did solemnly and *unanimously* record their testimony in these words:

"*Resolved*, 1. That the education of children in the schools of this State requires the most vigorous attention, lest by the neglect of the Bible, and those Christian principles which inculcate obedience to the government and respect for law, the public school should lose all moral power, and become subservient to infidelity, Romanism, licentiousness and anarchy."

"*Resolved*, 2. That in the name of our common Christianity, and public morals, and our civil liberties, founded on the principles of the word of God, and in the name of the God of our Fathers, and in behalf of the Christian families under our care, this Synod lifts up its voice of remonstrance, and earnestly utters its solemn protest against the recent action of the Board of Education, by which the children in thirteen of our public schools have been robbed of their right and privilege of reading the word of God, and calling on him in prayer, and that the ministers and people be enjoined to use all lawful means to *restore* the Bible to its place as the basis of all right education."

In the words of the Dr. I ask my readers to "observe the motives to which" *they* "ascribe" this Bible movement in New York, "lest by neglect of the Bible the public school should lose all moral power, and become subservient to infidelity, Romanism, licentiousness and anarchy."

These earnest resolutions clearly show us on which side of the so-called political movement these men were; and the testimony of ten thousand anonymous scribblers will not convince me that their efforts in that contest were put forth, "in order to place the financial department of the city government in the hands of a particular set of individuals." Had I access to them, the records of other denominations of the Church in that city would doubtless furnish similar testimony. On one side of this question, then, we have the testimony of one anonymous letter-writer; on the other, the unanimous voice of the whole religious community of New York. The former declares that the movement was a mere political one, the latter absolutely contradicts him. Our faith must abide with these, and the Dr's lone witness must stand aside as unworthy of belief, and the case which he was relied upon to make out must fall to the ground.

It may be thought that we have devoted more time to this part of the subject than its merits demand. We admit, more than its *true* merits demand, but not more than its alleged ones. It must be noted that this cry of "sectarian political innovation" is the popular form of attack, in this whole crusade against the Bible in schools, and an effort is made to prove that all the friends of the measure are sectarian bigots and political meddlers. Thus, how often do we hear it urged that "this is a free country, that men have no right to palm their confessions of faith, and books of discipline and catechisms, and Bibles on the people—let the schools be free, free from all bigotry and sectarianism, and let confessions of faith and the Bible be taught at home or in the Sabbath school." All the

friends of the Bible movement cordially agree with these men that *sectarian* books ought to be excluded from the public schools. The Federal Constitution, as well as those of the several States, secures the citizen in the largest civil and religious liberty—each man can choose his own church and worship God according to the dictates of his own conscience; and the idea of introducing sectarian books into the common schools of a country thus free, ought not for a moment to be tolerated, and we solemnly protest against any such measure. The grand fallacy, however, as we have before shown, is in assuming that *the Bible is sectarian*, and in raising and pressing the clamor upon the public against all evidence to the contrary, and thus attempting to fix the charge of sectarian and political heresy on all who advocate its use. Hence, we have dwelt long on this point, and even at the risk of some repetition, we will sum up the several facts as already made out. From all the foregoing it appears:

1st. That in the early days of our country, the Bible was used in the schools by the common consent of all, no one having ever dreamed that it was a sectarian book, and that its use in the schools would be unconstitutional. This the Dr. himself seems to admit; page 21, he says: “and it is just in the fact that in our earlier history there was a greater unanimity of religious sentiments among us, that we find the reason why, there was but little, if any, difficulty experienced on this subject fifty years ago.” The difficulty, he says, is now increased, by the increase of a population “of different national prejudices and religious creeds.” As to the matter of fact, he is in error, for there were just as many sects, and just as much diversity of religious sentiment fifty years ago, as there are now. We ought to except the Mormons, who did not then exist as a sect, and who, I suppose, under the new theory, must come in with Joe Smith’s Bible under their arm, pleading their rights of conscience. Nor can we admit the conclusions upon the above erroneous allegation, that to meet the prejudices, and religious creeds of the incoming population of Romanists and Rationalists, we must abandon the old unanimity of faith and usage in relation to the use of the Bible in the schools.

2d. The Bible-question never assumed a political shape in the hands of its friends. They never dreamed of such a thing.

3d. It appears that the first charge of sectarianism against the Bible, and the first attempt to make its use in the public schools a political question, was made by the Romanists in New York, within the last twenty years.

4. It hence appears, that the present effort of that church to exclude it from the schools, is an *intensely sectarian one*, is a *political one*, and is a *new one*—new to the laws and to the usages of the country.

5th. From the almost unanimous testimony of wise and good men

everywhere, and from the nature of the case, it appears that a successful issue of this Romish effort would lay the axe at the root of our civil and religious liberties, and bring disaster to our glorious Republic, and to the Church of God.

And finally, as this evil scheme has been devised and prosecuted by priests, I cordially agree with Dr. Scott, when he says, page 101: "If our great, glorious, and free institutions, are only let alone, kept free from this everlasting tinkering of fanatical clergymen, priests and demagogues, they will stand forever. *If ever the liberties of America perish, it will be by the hands of quasi-religious demagogues. Only sacerdotal hands can ever ply the torch to the temple of our liberties.*" How true to the letter, does this prediction appear from the history of the past and present of our beloved country. From the origin of the government, as a people, we acknowledged God, observed His Sabbath, honored his revealed word, and made it the school-book of our children. We believed in the immutable conditions of national prosperity and perpetuity, which He announced to the people of Israel. "The Lord is with you while ye be with Him; if ye seek Him, He will be found of you, but if ye forsake Him, He will forsake you." Acting on this faith, God has blessed and prospered us as a nation—such has been the past. What is the present? *As a nation*, we are called upon by foreign priests, to break conditions with the God of our fathers, and know no Bible, no religion, no Sabbath! If we answer this call, and as a nation strike out on this new Bibleless, Sabbathless, Godless course, what will be, what must be our future? So long as Christianity remains a part of the common law of the land—so long as the author of that Christianity is acknowledged, and His Revelation and ordinances are observed, so long "are we with Him, and He with us," and so long are our institutions safe; but the moment we yield all these, we are ruined. Let every true Christian, and every true American, hold on to the God, and the Christianity, and the Sabbaths, and the Bible of his fathers, and with all his might resist this new attempt of fanatical clergymen, priests and demagogues to wrest them from his hands—and so will God prosper the State and Church.

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No. 8.

In a previous number it was stated that Dr. Scott's argument against the use of the Bible in the public schools rested on two premises; first, that it was a sectarian book, and second, that the State had no religion, no Bible, and consequently could not teach that which it did not possess. The first of these premises we trust has been proved to be utterly untrue.



How is it with the second? Has it any more or better claims to truth than the first? if not, it were well had the Tractate never been written, for it will mislead those who heedlessly admit its premises, and will furnish plausible arguments to a class of men with whom Dr. Scott has no sympathy. I proposed to confine myself mainly to the first, for the reason that the second had fallen into far abler hands than mine, "Layman's"; (for this name let us substitute that of Fletcher M. Haight, Esq., a prominent member of the San Francisco bar,) I find, however, that in order to reach the conclusion at which I propose to arrive, some general reference to the Dr's State-argument must be made—a summary of the unanswerable articles of Mr. Haight would better answer my purpose, than anything of my own writing, but I am not able at present to make it; and besides, as I understand that the friends of our cause intend to issue them in pamphlet form, for future reference in this controversy, any summary of mine would be out of place.

From the following extracts we learn the Dr.'s views on this part of the subject, page 60: "Is it then, true, that Protestant Christianity is part and parcel of the common law in such a sense as to require and recognize the enforcement of laws in favor of the Christian Sunday, because it is a religious day by Divine appointment, and the use of our Protestant Bible in our State institutions? To this I must answer, No." Speaking of the articles of the Constitution of the United States which relate to religion, he says, page 41: "It is there implied they may worship as many Gods as they please, and worship anything as God they may choose, or worship no God at all,"—page 79: "Our Government has no Bible. It does not profess to believe in any. How, then, can it teach what it has not itself? As a government, we have neither Bible nor religion,"—page 74: "When a man takes an oath simply as a citizen, there is no necessity to use the Bible or the name of God. The President of the United States, and the Governor of the State, can take their oath or make their affirmation, without the use of the Bible or the name of God. The following is the oath copied from the Constitution, 'I do solemnly swear (or affirm) that I will faithfully execute the office of President,' &c., nor is there any other catechising as to whether by an oath, they mean an appeal to God, or a belief in a future state allowed."

For the support of his opinion in relation to the common law, the Dr. relies on the evidence found in what he calls a "very remarkable letter of Mr. Jefferson to Major Cartwright, written in his eighty-second year," in which he attempts to prove, that the dictum that Christianity is a part of the common law, is a "judiciary forgery," a judiciary usurpation of legislative powers, founded on a mistranslation of the term *ancient scripture* into *holy scripture*—and that all the decisions of the English Courts

from the sixteenth century, are founded on this mistranslation. This apparently grave authority, Mr. Haight completely demolishes. He shows that the letter of Mr. Jefferson is a *very* remarkable one indeed, inasmuch as the assertion it contains is absolutely false; and he goes farther, and proves that *Holy Scripture* is the true rendering of *ancient scripture*, as used in Norman French; "that Finch, the person charged by Mr. Jefferson with the mistranslation or forgery, in fact did not make any translation of the passage whatever, notwithstanding Mr. Jefferson professes to copy the *very words* in which he has translated it. Mr. Jefferson has made a translation for him in words with inverted commas, then attempted to prove his translation false, and failed to do it." Having thus, and little to the credit of that hoary-headed enemy of Christianity, removed that foundation from under the Dr.'s theory, Mr. Haight goes on, and by an unanswerable array of authorities, established the fact which the Dr. attempts to disprove—he thus concludes: "I have furnished ample authority from the time of Bracton, who is said to have written in the year 1270, down to the year 1857. During this long period, I find no adjudged case holding a contrary doctrine. In every age fanatic infidelity has attacked the principle, but it has stood, and we hope may continue to stand against the open assaults of the infidel, or the more dangerous attacks of misguided friends."

Thus Mr. Haight settles the common law question—and in the same manner overthrows the Dr.'s monstrous theory of an oath, and indeed, every other law attempt which he makes. The truth must be confessed, that we preachers had better stick to our texts; when we leave them and undertake to enlighten the world on the subject of jurisprudence, we are apt to cut a rather sorry figure, and somehow or other, these lawyers do not seem to appreciate our labors. Acting upon this grave reflection, I will leave Messrs. Prisot, Finch, Mansfield and Haight, and also Mr. Jefferson's extraordinary letter to Major Cartwright, written in his eighty-second year, and will take a view of Dr. Scott's theory of the State from another stand-point, and try to make out what that theory really is; to what it inevitably tends, and with what great and sacred authorities it comes directly in conflict.

On the subject of the State, the Bible thus speaks, Rom. xiii, 1: "Let every soul be subject to the higher powers. For there is no power but of God; the powers that be are ordained of God." Here we have God's account of the origin of the State, of the duty of citizens, and of the reasons for that duty. Calvin on this text says: "Understand farther that powers are from God, and he has appointed them for the legitimate and just government of the world. For though tyrannies and unjust exercise of power are not an ordained government; yet *the right of government* is

ordained by God, for the well-being of mankind." Poole says: "That which hath God for its author is to be acknowledged and submitted to, but magistracy hath God for its author, therefore Paul speaketh not here of the person, nor of the abuse, nor of the manner of getting into power, but *of the thing itself*, which he says is of God." Dr. Adam Clarke says: "As God is the origin of power, and the Supreme Governor of the Universe, He delegates authority to whomsoever He will; and though, in many cases, the Governor himself may not be of God, yet *civil government is of Him*; for without this there could be no society, no security of property; and the habitable world would soon be depopulated." Dr. Hodge says: "Civil government is a divine institution; it is not a matter which men may or may not have at pleasure; *it is the will of God that it should exist.*" From these high authorities, and from the highest of all authorities, God himself, it thus appears that government is a necessity of humanity, that man was made for society, that the end of his being cannot be attained without it, that mere individualism would defeat that end, as completely as anarchy itself. Hence, for the well-being of men, God has created civil government. He is in it, for it is His will for the regulation of man, and that will creates the authority of the State. Whenever it legislates in opposition to that will, it is in error; and farther, we find that God everywhere claims and exercises the right to dictate and direct those in civil power. "Hear ye me, Asa, the Lord is with you while ye be with Him."

This idea of the State differs very widely from that of Dr. S., for while he will, in the abstract, admit all we have said, he denies its application to our government, for he says it has no Bible, no religion, need not even recognize God in an oath. In this passage of Scripture, Paul is not dealing in abstractions, but in a living, practical thing, called civil powers, the State, to which he is demanding the obedience of Christians, because it is ordained of God. On the Dr.'s theory, he must admit that God has ordained a government for the United States from which he has excluded Himself —as if He had said to us, I have given you a Constitution and laws, which I have ordained in order to promote the highest morality and temporal happiness of you all; this Constitution of your nation is from me, for all government is from me, but I have shut myself out of this State of yours, for you will find under its "organic laws," no right or power to keep my Sabbath, or to acknowledge my written word, or to invoke my presence and blessing on your Legislative councils, or even to acknowledge my name; for under these "organic laws" which I have ordained, you may worship any God, or as many gods as you please, or no God at all! Has God ever ordained such a government as this? so says our author —we are not misinterpreting him, for we are speaking of

his favorite "organic laws," that harp of a thousand strings on which we have such a number of variations all through the Tractate. Ordinary men would pause a while before they would attempt to maintain this monstrous position, but the Dr. comes boldly up to it on this wise; p. 40, he says: "The fact that the powers that be are ordained of God, does not prove that the State as such, is religious;" and he reasons out this proposition after this novel manner—"The power to get wealth is also in God, but riches are not piety! God put a bit in Nebuchadnezzar's nostrils and made him His hammer to execute His wrath upon Egypt, but it does not follow that therefore the King of Babylon was as godly as Daniel!" In the name of common sense, I ask, what possible analogy, or relation, or resemblance, does the power of the human muscle, by which riches are earned, bear to the ordinance of civil government? or Nebuchadnezzar's appointment to a special service, to the same civil government! The Tractate abounds with such reasonings as these—and what is the more extraordinary, they are put forth with the ponderous gravity of demonstration, while, in fact there is nothing, absolutely nothing in them. But the proposition is untrue—what God ordains, appoints, the civil powers, and the State which they are to govern is not religious! "has no religion." The very word religion implies a God, *religio*, *religere*, "to bind anew," "bind again." Bind to what, to whom, I ask? If God ordained the State it is bound to Him; bound to obey His laws, to acknowledge His name; and is in that sense religious. And, by the way, just here was the place and time to answer "Rev. Mr. H.'s scholarly, able document of thirty-one closely written pages;" who this Mr. H. is it does not concern me to know, but from the glimpse we get of him in the Tractate he is evidently a sensible man. From a reference to Kent, and Story, and Webster, and to the charters of the colonies, he maintains that "our Constitution and laws are founded on Christianity, and that they do favor and prefer, promote and sustain the Christian religion, that our constitutional provisions were not intended to put the Christian religion on the same level with Mohammedanism." The Dr. says "the result of his able and learned argument is, that, as Christianity is a part of the common law, therefore our government is a Protestant Christian government, and ought to stop Sunday mails, put the Bible in schools," &c. The Dr. demurs to this conclusion, and refers H. to what he has said in his ninth chapter, for an answer. Now be it known that this ninth chapter contains the argument based on the Jefferson-Cartwright letter which Mr. Haight so completely demolished. The highest compliment one disputant can pay another is to leave his argument unanswered. H. may consider himself thus complimented. If I apprehend aright the Dr.'s theory of the State, it mounts not to its separation from the Church alone, a thing which every

true American holds, but to a total separation of the government from God Himself, making it in fact as atheistic as was that of France in 1793—else what does he mean when he says, “as a government we have neither a Bible nor religion? The Declaration of Independence recognizes God and Christianity *by its date*, but this is all, and this much every Pagan might do?” page 70. Even the oath of its Supreme Head does not necessarily appeal to God!

Such a civil State as this would be a monster. Since the advent of Christ its like has never appeared on earth but once; and short, and bloody, and terrible, was its existence. No page of human history is so wet with tears and blood, as the one which records its origin and doings. It denied the being of God, abrogated the Sabbath, and introduced the decade; it repudiated Divine Revelation and made Reason the only guide. Men may charge that I am instituting extreme comparisons, but I ask in soberness, any man to point out the difference between the government of this Tractate and that of Revolutionary France? Between the two theories I can perceive no difference; France had a God, a Sabbath, a Bible and a religion, and cast them off—we never had either religion, Sabbath, Bible or God! Where is the difference? As American citizens and Christians, we have reason to bless God that such is not our Government. In its Constitution it recognizes God when its President and other officials make their oath of office. It recognizes the Sabbath when it excepts it in the ten days which the President may retain a bill. It recognizes the Bible as of Divine origin, when it allows its use in the administration of an oath. In all its departments, Executive, Judicial and Legislative, it acknowledges God and His Bible and Sabbath. It has always done so—it does so now, and must continue to do so, because it is bound by the letter and spirit of its constitution and by its common law so to do. We are a Christian nation, not in despite of our Constitution, and laws, and administration, but in harmony with the great principles of the Constitution.

The Dr.'s first premise is, that the Bible is a sectarian book—when brought to the test of truth, it was found wanting and fell to the ground. His second is, that the State has no religion, no God, recognizes none; when brought to the test of the law, and in the facts of history, it also is found wanting and falls to the ground. What is left for the theory to stand upon! What is the theory worth? Organic laws which are Bibleless, Sabbathless, Godless—a State without a God! It stands like the “baseless fabric of a vision.”

## No. 9.

Dr. Scott seems to have fallen into these impracticable and erroneous views of government, from a blind adherence to the *letter* of the constitution at the expense of its spirit. The intention of its framers, its ordinary interpretation, and its uniform practical workings, are all overlooked, and we are gravely asked to accept as true, his particular interpretation of the letter; an interpretation, too, which Mr. Haight has just proved to be wholly incorrect. Thus, when treating of the action of the Presbyterian Church, in relation to Sabbath laws and Bible-in-schools, he falls back on what he calls its "articulated faith and action," in plain words, its Confession of Faith and Form of Government; and when attempting to prove that the State has no religion, he talks about its "organic laws," by which he means its Constitution. The object of this strict construction is to show that the State has no power to legislate in favor of the Sabbath, or for the use of the Bible in its schools; and that the Church has no power to urge the adoption of these measures. Let us a moment look at this point, for it is evidently regarded by the Doctor as one of the keys to his position. Who, it may be asked, are competent to judge of the intention and meaning of a given written instrument? Are not the persons at whose instance, and for whose benefit it is drawn, reliable judges of its meaning? and are not the agents whom they employ to prepare the instrument for them reliable judges? Now, in the case of the Constitution of the United States, Dr. Scott avers that it ignores Christianity; that all mention of it was purposely left out; that it is no part or parcel of the common law. In direct opposition to him, the Legislatures of the several States, with one exception, and the Congress of the confederated States, declare by formal statute, that Christianity *is* part of the common law, (and when they say Christianity, they include the Bible of Christianity, for the very existence of the thing would not be known without the Bible which contains its history and laws). Moreover, the Judiciary of the several States and of the Federal State, from the lowest to the highest courts, declare that Christianity is part of the common law, and make their decisions upon that declaration. The Executive department of the several States, and of the United States declare the same great thing, and conform their acts of administration to it. And in short, the entire machinery of the government, in all its practical workings, is adjusted to the fact that Christianity is part of the common law. I respectfully submit whether the interpretation of these many and highly respectable parties is not decisive as to the true meaning and intent of our organic laws. During the seventy years of its existence, our Federal Government, in all its departments, has thus interpreted the Constitu-

tion. Against this unanimous, this mighty judgment, we have the opinion of Dr. Scott, backed up by "Mr. Jefferson's very remarkable letter to Major Cartwright."

The other case is the "articulated faith" of our Church. The letter of the Constitution, according to the Doctor, does not warrant the placing the Bible in public schools, nor asking legislation for the Sabbath. On the other hand, the hundreds of thousands who constitute the membership of that Church, solemnly aver that the "articles of faith" not only warrant but require both these things. The Church sessions, the lowest courts, confirm this interpretation—the Presbyteries affirm the same—the Synods adopt and proclaim as true the opinions of the Presbyteries, and the General Assembly, the highest court, endorses and re-affirms the same interpretation. It is now one hundred and fifty-five years since the first Presbytery of our Church was organized, one hundred and forty-three since the first Synod, and seventy since the first General Assembly met. During these many years, the individual members, and the courts from the lowest to the highest, have unanimously interpreted the Constitution, the "articulated faith," as warranting opposition to the encroachments of Popery, as requiring the use of the Bible in the schools, and as favoring the passage of laws for the better observance of the Sabbath, and the Church *has carried out its interpretation by constantly urging on all these things*. If this undivided voice of the Church does not determine the meaning of her "articulated faith," what can do it? The Doctor pronounces this voice as "dictatorial utterances of individuals, Presbyteries and Synods!!" Remember, these utterances were made by these bodies under the conviction that the constitution of the church warranted and required them. In the name of modesty, what can be said of all this talk about "organic laws and articulated faith?" The government of the United States and the Presbyterian Church of the one part, and Doctor Scott of the other!

The Tractate has a chapter under the title, "Majorities have no Rights over the Conscience," which demands some notice. Those who, for the last twenty years, have closely observed the Romish crusade against the use of the Bible in the American schools, have become very familiar with the plea of *rights of conscience*. Romanists, and Deists, and others, are sorely grieved by the reading of the Bible in the schools, and their tender consciences must be mollified by the removal of the obnoxious book. The consciences of German Rationalists, and French Free-thinkers, are terribly injured by those laws which interfere with their Sunday sports, and the Sunday law must be repealed. This conscience, one would suppose, was the supreme rule of human conduct, beyond and above all cognizance by God or the State. Is this so? Is conscience a rule of itself? Are

its dictates the supreme law? Is it supreme in such a sense, that everything which American citizens and Christians have hitherto regarded as vital to the State, and sacred to the church must, at its command, be thrown out, or fatally compromised? Let us see what conscience is, and under what conditions its decisions are valid, and its rights exist. The books say, "Conscience is that faculty by which we *distinguish right and wrong* in regard to conduct, desires, or affections; by which we approve of what is deemed right, and disapprove of what is deemed wrong; by which we are impelled to practice what is judged to be right, and prohibited from what is regarded as wrong." Another,—“Conscience is the moral sense by which we irresistibly feel the difference between right and wrong—it implies a double or joint knowledge, namely, one of a divine rule or law, and the other of a man's own action.” Respecting conscience, the following things are true :

1. That it is not itself the standard of right and wrong, for we find its decisions varying with the circumstances of the individuals, e. g. Paul's conscience at one time impelled him to persecute, to the death, the followers of Jesus, for he tells us, “I verily thought with myself, that I ought to do many things contrary to the name of Jesus of Nazareth.” At another, his conscience condemned him for this very act. The conscience of a heathen impels him to worship an idol; but when he is converted to God, his conscience condemns him for the act.

2. “Though conscience is an original faculty and universal in its operation, it requires, in order to discharge its office fully, to be enlightened by moral and religious truth;” it must be instructed, because its decisions are dependent on the understanding—thus Paul's conscience, in the first instance, decided on the supposed knowledge that Jesus was an impostor and an enemy of the religion and the God of the Jews—in the second, its decision was founded on the understanding that Jesus was God.

3. Conscience must have a rule outside of itself, for, as just seen, it cannot be the standard of right and wrong; and this rule is not in the example, or conduct, or opinions of itself.

4. “The distinctions of right and wrong are immutable and eternal,” they have a real existence “independent of our perceptions and emotions,” independent of decisions of conscience, or enactments of Legislatures, or commands of Rulers. “Even God's *will* does not create moral distinctions, but simply expresses those distinctions which eternally and unchangeably exist, and which are *founded in His own nature.*” This will of God which contains these distinctions is the *rule of moral obligation*—*is the standard to which every right decision of conscience must conform*, else it is null and void. Dr. Wardlaw says, “This rule may be ascertained by answering the fundamental question, whether man be a subject of the government of the Deity? If the moral government of God be



granted, and the consequent subjection of man to that government, it evidently follows, without an intermediate link of reasoning, that the rule by which his conduct is to be regulated, *must be the will of the Supreme Governor.*" As the judgments of the Supreme Court are the law of the land, and as any decision by a lower court, which is in conflict with it is void; so the Bible is the supreme authority in the moral world, and any dictates of conscience which contravene its teachings, or deny its divine authority, are null and void. It takes precedence of every other might, or authority, or dominion. When the civil powers command men to disobey *it*, their commands cease to be binding, and cease *because* they are in conflict with the Bible. Thus Daniel, when an ordinance was passed by the King, which forbade him to worship God, resisted it, and God wrought a miracle to sustain him in his resistance.

From these facts about conscience, it is plain that it is only a subordinate rule; that its decisions are only valid and admissible when they are conformed to God's authority. It also appears that no lawful civil powers can exist, which do not recognize God as Supreme, and His will as a guide. This, the framers of our organic laws knew, and hence framed them in subordination to that divine will. Thus our Constitution recognizes God, the Bible, the Sabbath, and makes express provision for the protection of all our citizens in the free exercise of religion. Let us apply these facts about conscience to the case before us, and see how much importance ought to be given to all this talk about its "rights." The Dr. urges that the right of conscience of the atheist, Deist, and Hindoo are just and admissible. He will admit that the decisions of their consciences come in direct conflict with the decisions of the Supreme authority, for two of them deny the being of Jehovah, and the third denies the truth of his revelation; yet he tells us that our government has no right to interfere with the consciences of such people! Yea, he goes farther and tells us that we must "ignore the subject altogether," must compromise the matter; and his notion of a compromise, in the case of the Bible in schools, is a very singular one; it is all in favor of Rome and infidelity. They say, our consciences disapprove of your Bible, you must take it out, the millions of American people say, our consciences would be injured by so doing, for we believe the Bible; and Dr. Scott's compromise is to grant all that Rome demands, and refuse all that America demands! But the compromise cannot be made, because these claims of conscience being in conflict with the will of God are not admissible—they are not *rights* of conscience at all, because, according to one of the facts found, decisions of conscience which conflict with the higher authority of God are null and void. A Mormon enters a man's house, and tells him that his Joe Smith Bible allows, and his conscience impels him to marry his wife and a couple of his daughters; the man kicks him out as he would

a mad-dog—he does not recognize either his Bible or his conscience. Yet the same licentious wretch claims, by virtue of his American citizenship, the right of conscience to live out his abominable system—yea, he pleads these rights against the use of the true Bible in schools, where his children are taught, and the government must concede these so-called rights!

Again, when unbelievers say to the State, your recognition of God in an oath, your admission of His Bible and Sabbath, wounds our consciences; we have rights of conscience as well as Christians, and, as American citizens, we insist upon the removal of these offensive things; the State cannot grant the request, cannot even compromise, because the State is of God. His religion is a part of its fundamental law, and by granting the demand it would destroy itself, would disobey the Supreme authority, which, according to another of the facts found, it has no power to do. The State must, hence, say to these anti-Christian petitioners, this thing which you call “rights of conscience” in this case, is not rights at all—you *have* no right to ask the State to overthrow its fundamental law to appease your conscience. Take an illustration: if a company petitions Congress for the privilege to coin money, and regulate the value thereof, Congress will say, this is one of the powers which the Constitution has granted to us; we cannot relinquish it without destroying ourselves; we cannot even recognize your *right* to petition in this case, for your alleged right so to do is the result either of ignorance or impudence.

Claims of conscience, then, are only admissible when they are subordinated to the authority of God; in all other cases they must be rejected, and it is a mere darkening of counsel by words without knowledge, to call them “rights of conscience.” Now, to the case in hand; what is claimed? What is the State asked to do? To leave its Sabbaths unprotected—to cast out the word of God from its schools—to refuse to call upon His name or recognize His existence in its Legislative assemblies—to refuse to appeal to Him in the oath which its officials take—to reject His religion from its common law, and thus cease to be a Christian nation, and take rank with pagan nations! Are these claims just? Is the Sabbath an illusion? Is the Bible a fable? Is God a myth? Is Christianity a lie? If so, the claims are just, and the rights of conscience are just and admissible; but if not, they are *no rights*, but on the contrary, are insolent demands which cannot be granted. Dr. Scott seems to differ with this view of the subject—he says, page 105: “I do not see why the Catholic has not as much right to say that his conscience is as enlightened and as truthful as ours,” and in arguing against what he calls “numerical conscience,” he waxes facetious, and deems that those who plead for a conscience conformed to the standard of God’s word, that is enlightened, “must weigh, or measure, or count consciences”—but his views to the contrary notwithstanding, it remains an immutable truth, that no unen-

lightened conscience can lead its possessor in the right way—that no dark conscience has the *right* to exclude God's light from the world and reduce it to its own darkness.

The Dr. says he does not see "why the Catholic has not a right to say that his conscience is not as enlightened as ours." I do see why he has not the right to say so. He has no Bible—he has not a true knowledge of its way of salvation—he has other mediators than the man Christ Jesus—other foundations of hope than the righteousness of Christ. *To the Law and to the Testimony* the conscience must conform, in order to its true enlightenment. Does the Dr. hold that the Douay Bible is as true a fountain of knowledge and enlightenment as our Bible? If he does not, he ought to see why the Catholic's claim is not equal to ours. His whole reasoning in relation to the majority having no rights over conscience, is proved erroneous by the foregoing statements, and need not be examined in detail. From these facts respecting the nature, offices, and rule of conscience, it appears that its true admissible rights are not found with those who are assailing our Bible and Sabbath—and that the loud, confident talking, and popular appeals in behalf of these supposed rights are words without knowledge, and dust-clouds without rain.

In conclusion we say, that as the revealed will of God is the only standard—and as the decisions of conscience which ignore that standard are null and void, and as our government is Christian, cannot recognize any alleged claims of conscience which would destroy its Christian character, we hold that the demands of Romanists and others in this Bible-in-school business, based upon what they call their rights of conscience, are null and void.

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No. 10.

Some additional remarks in relation to the Dr.'s majority and minority theory of conscience, ought to have been made in the last number. At the risk of some repetition, let us refer to it here. Page 108, we read: "Why, as our laws do not know anything of the conscience of majorities or minorities, but to protect it, I should say, ignore the subject altogether. But when you say, the majority conscience is violated; I answer majorities have no right by law to put forth such claims for conscience." Now, it has been proved that our laws do know something more of conscience than simply to protect it; they can grant or can refuse its claim. When the conscientious convictions of a minority of citizens are expressed in the form of a vote for a Sabbath law, the State will refuse that claim, because a majority has expressed its wish in opposition. And when the 'Mohammedan and the worshippers of the Great Lama,' plead the claims of conscience for the removal of Christianity, our government

not only has the right, but is bound to resist the claim; bound by the Constitution itself to do so, because it cannot throw off its Christianity and reduce its citizens to Mohammedans and Asiatic Tartars. The conscience of the majority must govern, and that of the minority must yield; for I humbly submit that conscience has a good deal to do with every vote which an intelligent, upright citizen casts. But on this theory, when a minority of Mohammedans or infidels say you must throw away your Christianity, the "majority has no right to put forth claims of conscience" against it! *i. e.* the majority of the citizens of a Christian government has no right to say we will continue to be a Christian government!

Let us look again at the application of this monstrous principle to the case in debate. For more than half a century, the American people, according to the convictions of conscience, quietly enjoyed their laws for the protection of the Holy Sabbath from desecration, quietly enjoyed the use of God's Holy Word in their schools. At the expiration of this time, some two or three millions of Romanists and Rationalists, who have immigrated to the country, say to the twenty or twenty-five millions of American people, our conscience demands the removal of the Bible from your schools, for we do not believe in it, and the removal of all restrictions from the Sabbath, for we have been accustomed to use it as a day of sports; and we are gravely told that against this insolent demand, these millions of Americans have no right to put forth their claims of conscience! But the Dr. will say, I plead that the government has nothing to do with the claims of conscience of either party, "ignore the subject altogether." Observe, however, that for half a century the majority were in the quiet possession of *this right of conscience*, and he now demands us to ignore this right of the majority and *grant* the alleged right of the minority. Turn it over which way you will, and you will find here, *two distinct, and opposing claims of conscience*, the one demanding the removal of the Bible and the Sabbath, the other asking that they may remain. When, then, you have removed the Bible and the Sabbath, you have granted just what the Romanist conscience asked, and all it asked, and you have refused just what the American people asked, and all they asked. And this is the "equal, perfect, absolute, religious freedom" of our Tractate. To the Romanist it most certainly is perfect, absolute freedom, but to the Protestant American it is perfect, absolute, religious slavery. It is idle to say, let the State ignore the subject; it cannot ignore it, does not ignore it. And the Dr.'s theory is simply that of a minority governing the majority. Turn it which way you will and it is that, nothing but that. In the case before us, when applied to the State it means, let Christianity withdraw, and let Paganism take its place; when applied to the church it means, let Protestantism stand aside, and let Romanism take its place.

As said before, this minority-conscience-theory is no new one to those

who, for the last twenty years, have observed the Popish crusade against the American schools. Bishops Hughes, of New York, Purcell, of Cincinnati, and O'Conner, of Pittsburgh, have presented it under a wonderful variety of forms. The last named Bishop, some years since, wrote a series of letters on the sufferings of Romanists by reason of what he called, "*the tyranny of local majorities.*" He expressed himself satisfied with the State's appropriation of public moneys for the support of schools, provided religious societies could have the control of the schools, but complained grievously of the "popular majority," which, by refusing to consent to the proviso, injured the conscience of the minority. Dr. Jacobus, of the Western Theological Seminary, replied in four letters, addressed to the Governor of Pennsylvania, which were issued by the *Presbyterian Board of Publication*. An extract from one of these very able letters will conclude what I have to say on this subject. "It is boldly avowed that *their religion* is offended. This we can understand only when we consider that it is a *political religion*. Nothing religious is here imposed by the State. The Bible is used where the popular majority calls for it, and this accommodating plan does not satisfy, because that "tyrannical majority" has the control, and not an ecclesiastical power. What then can we do? Will not our Legislature say, we cannot help you? If your religion is such that it cannot conform to our free institutions, there is no redress we shall not legislate against you; we cannot legislate for you. If your *conscience is offended by submitting to majorities*, we cannot help it. Conscience is indeed sacred; but we cannot respect even conscience so much as to regard it where it is false, or to give up the free principles bought with our fathers' blood, for any such asserted grievance. It may be a grievance that the Bible insinuates itself into all our public institutions, not by statute, but by the free choice of the people. But you must submit. We believe that universal education and a free Bible, are the highest security under God, of our republican principles."

My sole object in these numbers has been to show that Dr. Scott's Tractate is of no possible authority on the great subject whereof it treats. The able argument of Mr. Haight, together with the authorities which I have been able to cite, have secured this object. The Tractate was written to prove that the State knows no religion, no Bible—that hence, it has no power to legislate in relation to the Sabbath, or to appoint a chaplain to pray in its Legislative assemblies, or to place the Bible in its schools. It is, moreover, alleged that the English Bible is a sectarian book—that the Constitution of the Presbyterian Church does not warrant its members or ecclesiastical courts to press its use in the State schools, and it is virtually admitted that the conscience of a majority must yield its Bible and Sabbath to the alleged rights of conscience of an anti-Christian minority.

On each and all of these points, the Tractate has been proved to be wrong. Wrong in asserting, against all authority, that Christianity is no part of the common law of the State. Wrong in asserting that it has no power to legislate in this behalf. Wrong in asserting that the English Bible is a sectarian book. Wrong in its interpretation of the constitution of the Presbyterian Church, and wrong in relation to the rights of conscience. Of necessary consequence it can be of no authority on the question at issue. It must also be apparent to all, that the influence and tendency of the book are most unhappy. The citizen is here informed that the State and Christianity are wholly separated. The Christian is told that the Bible, which he has been taught to regard as the word of God, the only infallible rule of faith and practice, is a sectarian book, which is properly classed with articles of Synods and Confessions of Faith. The hands of Romanists, and the enemies of the Bible and Sabbath, are strengthened. Such ought not to be the tendency of a book written by a Protestant divine. A work from the pen of such a man, ought to have a hopeful, useful future before it. It is not so with this Tractate. Although the Bible and Christianity are among its prominent themes, it will never be reprinted by a Christian press. The friends of the Bible will never look to it for arguments. The advocates of the Sabbath will not turn to its pages for help. The Church of Christ, when struggling against the encroachments of Popery, will not quote from its teachings. Nor will the Christian Statesman, when contending for the God-ordained principles of government, appeal to it as authority. On the contrary, its authority and future belong to those who are opposed to Sabbath laws, and to the use of God's word in the schools. The principles it maintains may for the time prevail, but in the end will not triumph. Jehovah will be known and honored as the Supreme Ruler of States. He will reign King of Nations as He now does of Saints. His command, "Search the Scriptures for in them ye think ye have eternal life," will be heard and obeyed by all; no laws of men will interpose to prevent obedience to that command; and these Scriptures will be found in the hand of every man, they will be on the desks of every school-room in the land, for He will not allow His people to compromise at the expense of His glory.

With Dr. Scott, I have no personal controversy. The matters first discussed in my printed sermons, then in his Tractate, and now in these notes, are not of a personal or private nature; had they been, these articles of mine would never have appeared. Had I not believed that the honor of the church of which I am a member, the interests of the whole church of Christ, and the well-being of the State were all involved, never would I have turned aside to examine the subject. The cause, which these numbers are intended to advocate, I most sincerely believe to be the cause of God, and most confidently commit the issue to Him.

\*\*\* TO THE PUBLIC.—These articles being a review of a book published by Rev. W. A. Scott, D. D., entitled "The Bible and Politics," originally appeared in the *Pacific*, under the signature of "Layman." The authorship having become generally known, at the request of several persons, the publication of them in pamphlet form, with my own signature, has been assented to. They are but slightly altered in this re-publication. Some expressions have been omitted and some explanatory notes added.

F. M. HAIGHT.

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## CONSTITUTIONAL REVIEW

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# DR. SCOTT'S BIBLE AND POLITICS.

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I propose to review, as briefly as the nature of the subject will admit, the recent publication of the Rev. W. A. Scott, D. D., entitled "The Bible and Politics." The title of the book does not indicate, with any precision, the great principles discussed. The occasion of the publication seems to have been certain newspaper strictures on a sermon, or rather the notes of a discourse published in the *Times*, and I infer, with his consent, and from notes furnished or corrected by himself. That he had the undoubted right to preach, print and publish said discourse, no one can deny; of the expediency of the thing, there may be differences of opinion. It is certainly true, also, that the tone and character of the strictures upon this discourse, as published in the work before us, are wholly unbecoming any respectable paper. The writer of this does not recollect to have seen them, and if he had, would not be likely to read or remember them. They could not do any injury to the Rev. gentleman, for his zeal, earnestness, ability and piety, are on a foundation too strong to be shaken by newspaper abuse. For I assume that the venom of such paragraphs is so apparent, that they are more injurious to the author and publisher, than the individual attacked. Every man, however, has the right, in this country, to speak, write and publish what he pleases, being responsible for the abuse of this liberty. The book, as a matter of self-defense, was unnecessary, and personal controversies of religious teachers will rarely advance the cause of their Master. If, however, it was deemed necessary for the edification of the people to discuss the subject of the book, then it is appropriate, and perhaps well timed. Premising, however, that with the greatest respect and esteem I have for the author, I could have wished he had deemed it consistent with duty to have omitted this publication, or have confined it to the expediency of introducing the Bible into the Public Schools, as well because it was unnecessary, as because the advocacy of the principles contained in the book is necessarily at variance with opinions entertained by a large portion of the religious public, and makes the author the inevitable ally of those whose opinions are antagonistic to all religion. I propose to review the principles advanced in the sermon in the *Times*, and in this elaborate publication, as I understand them. The work is somewhat diffuse, but I understand it to be the object of the book to maintain—

1. That there is no constitutional power in the Legislature to appoint a chaplain to preach or pray for them.

2. That under our system there is no constitutional power in the Legislature to pass laws for the observance of the first day of the week, commonly called Sunday.

3. That the selection of the Bible as a school book would be an illegal and unconstitutional exercise of power; and as a corollary from all these instances that any legislation tending to advance Christian morality, is opposed to "equal, absolute religious freedom." I do not propose to discuss the expediency of this kind of legislation. I have not read the discourses reviewed by Dr. Scott, of the Rev. Drs. Cheever, Anderson and Peck, and I have no desire to place myself in the attitude of a champion of any body or any particular party or sect, but against what I deem "radicalism run mad;" if such it shall prove to be, the writer will also present, in imitation of the author of this book, his "humble plea."

I do not intend saying anything objectionable to the author of the book I am reviewing, or anything which may tend to impeach his great merits and great usefulness as a didactic and exhortatory preacher, for I believe, in these respects, he has no equal in this State, and few superiors anywhere. His usefulness here has been great, and will continue to be, as I hope and believe; but writing *currente calamo*, amid the pressure of occupations foreign to this discussion, and with no time to copy and carefully and thoughtfully revise, it is possible that my language may sometimes be offensively strong, and if so, I can only say it would be more painful to me than to any one aggrieved, to have it supposed that I had passed the bounds of fair argument and just criticism, to inflict pain on any person.

The book of Dr. Scott makes some statements of a general nature which are important. One reason assigned for the publication is, that he could not refer to any book that presented his side of the case as he thought it ought to be presented. He says on page 15: "All the tracts and books I have met with on this subject, are in favor of the views that I am opposing, or altogether defective in presenting fairly what I conceive to be the true issues on this question." That books have been written, and speeches made on this side of the question, by men of great ability, is true, but they were by irreligious men, and at least one instance I recollect, by an honest infidel, not a man who was a railer at Christianity, but one sincere in his views, and upright and pure in private life. That, however, no professed believer in Christianity has printed or published the views contained in this book, if, as I think such is the fact, should certainly teach modesty and caution, both in author and reader, before adopting them.

It is also said in the advertisement, that "for some years, and particularly of late, our country has been agitated about Sunday Laws, Chaplains, and the Bible in the national schools." On page 21, is said, that in the earlier history of our country there was less difficulty by reason of an uniformity of faith. These things are true as to the past, the controversy is comparatively of recent origin; and it is equally true that in our earlier history there was less difference than now in the number of sects and their dogmatic theology; the statement is denied. There were as many sects in our earlier history as there are now; some have gained more and some less. But what is the more controlling reason, is, that in our earlier history there was more deference to and faith in religion, in all sects. The roots of bitterness have but feeble growth in the genuine soil of piety. These controversies have arisen much more from the absence of all religion than from any well founded constitutional scruples as to these matters. Take, first, the Chaplain



controversy. No objection was ever made in any Legislature that I ever heard of, to having a Chaplain to open their sessions with prayer, except by those who disbelieved all religion, and, of course, all praying. This controversy, it has been truly said, is of comparatively recent origin. In our earlier history, from the Declaration of Independence to within the last twenty-five or thirty years, it was deemed right "to acknowledge God in all our ways." As to the Constitution of the United States having anything to do with this question it is a mere assumption. There is nothing in it as to this matter, and in the nature of the compact could not be; but of this hereafter.

Before discussing the principles, let us look to the practice of the Fathers of the Republic in its earlier history. It will probably be conceded that George Washington, John Adams, James Madison, Roger Sherman, Daniel Carroll, Robert Morris, Fisher Ames, Elbridge Gerry, T. T. Tucker, R. B. Lee, Theodorick Bland, and many others, both of the Senate and House of Representatives, when they met in the first Congress in 1789, shortly after the adoption of the Constitution, and were then putting the Government in motion, had about as correct notions of constitutional power as most of our modern Solons, whether found in the pulpit or the Senate. Many of these persons could say, in reference to the Constitution, "*quorum pars magna fui*." George Washington was President and John Adams Vice President of the United States, and the other persons named, with others equally illustrious, were members of the Senate and House of Representatives. On the 25th of April, 1789, the Right Reverend Samuel Provost was elected Chaplain to the Senate. On the 30th April succeeding, Gen. Washington delivered his inaugural address, and, thereupon, the President, Vice President, the members of the Senate and House of Representatives proceeded to St. Paul's Chapel, where Divine service was performed by the Chaplain of the Senate; after which, the President returned to his house and the Senate to their chamber. This all appears on the journal of the Senate. (See Benton's *Abridgment of Debates of Congress*, vol. 1, pp. 11 and 12.) This was the way they started at the first session of the first Congress, and on looking at the names of the members who were the committee of arrangements in reference to the inauguration, there will be found as great diversity of sects as in any modern Legislature. There will be found the Puritan, Roger Sherman, of Connecticut, and Daniel Carroll, a Catholic, from Maryland, uniting in devout and reverential supplication with the Chaplain, Provost, an Episcopalian Bishop; and these good and great men do not seem to have had any suspicion they were violating the rights of conscience, much less doing anything contrary to the Constitution of the United States, or the genius of republican liberty.

On the 27th April, 1789, the House of Representatives resolved to appoint a chaplain, and appointed the Friday succeeding for the election. On the day appointed, William Lynn was duly elected. (See *Annals of Congress*, vol. 1, page 207.) This election of chaplain was in pursuance of resolution of a joint committee of conference in reference to the organization of the Government. The proposition did not meet with any objection, or elicit any debate, so far as we can ascertain, in the Senate or House. The Senate sat with closed doors until 1794, and their debates are not preserved; but the debates of the House are preserved, and no one is found raising any objection to the appointment of chaplains. There was no debate on

the subject. No one seemed to suppose that it was a debatable matter. Here I cannot pass over, though not strictly applicable to the point I am considering, but germane to the general subject, some extracts from the inaugural of Gen. Washington, and the reply of the Senate thereto. Gen. Washington concludes his inaugural with the following paragraph :

“Having thus imparted to you my sentiments, as they have been awakened by the occasion which brings us together, I shall take my present leave ; but not without resorting once more to the benign Parent of the human race, in humble supplication, that since He has been pleased to favor the American people with opportunities for deliberating in perfect tranquility, and dispositions for deciding with unparalleled unanimity on a form of government for the security of the Union, and the advancement of their happiness, so His divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures, on which the success of this government must depend.”

On Thursday, the 7th of May following, the Committee appointed on the part of the Senate to prepare an answer to the speech of the President, reported an address which was subsequently adopted and delivered, and from which I extract the following paragraphs :

“When we contemplate the coincidence of circumstances, and wonderful combination of causes, which gradually prepared the people of this country for independence : when we contemplate the rise, progress and termination of the late war, which gave them a name among the nations of the earth : we are, with you, unavoidably led to acknowledge and adore the great arbiter of the universe, by whom empires rise and fall. A review of the many signal instances of Divine interposition in favor of this country, claims our most pious gratitude ”

“We feel, sir, the force, and acknowledge the justness of the observation, that the foundation of our national policy should be laid in private morality.”

The Committee was composed of Messrs. Johnson, Patterson and Carroll.

Mr. Madison, of the House, reported their address, which was unanimously adopted, and the following is the concluding paragraph :

“All that remains is, that we join in your fervent supplications for the blessings of heaven on our country ; and that we add our own for the dearest of these blessings on the most beloved of her citizens.”

The practice thus inaugurated of electing chaplains was continued at every session, and so far as I have examined, without objection, so long as the Fathers of the Republic and the framers of its Constitution controlled its destinies. The same is true of the proceedings of the State Legislatures in the early history of the Republic. It was not then supposed that the voice of prayer or the song of praise could be offensive to legislative ears. So much for precedent ; and the facts of history do not need any references. We suppose it to be conceded that the controversy is of recent origin, and it may be true that we, in our day and generation, are wiser than our fathers ; but as the question is one of constitutional construction, and one of course where the intention of the framers is the great point sought, it seemed proper to refer to the construction *unanimously* placed upon it by those contemporary with and having aided in its formation.

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The Constitution of the United States has no bearing upon the question as to the legislative power of the State over subjects of this nature. There is no grant of power to Congress in regard to the matter. The Constitution of the United States is a grant of certain powers for the general good, and such implied powers

as are necessary to carry into execution those expressly granted. The Federal Government has no original sovereignty. It is a creature of compact, agreed upon by the people of the United States, or the States, and which is a vexed question not necessary to this discussion. The powers of the Federal Government are defined in the Constitution. Congress cannot legislate upon any subject not embraced within the power granted. Article 6, section 3, quoted by the author, is as follows: "The Senators and Representatives before mentioned, and the members of the State Legislatures, and all executive and judicial officers, both of the United States and the several States, shall be bound by *oath* or *affirmation* to support the Constitution, but no religious test shall be required as a qualification to any office, or public trust in the United States."

Amendments to the Constitution, Article 1, is the following: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

These two provisions *imply*, says Dr. Scott, that people "may worship as many Gods as they please, and worship anything as God they may choose, or worship *no God at all*." See page 41 of the book. Now with all due respect, what is an oath or affirmation? It certainly has some relation to religion and futurity, otherwise it is a farce. It avows a belief in some God of some kind. The very terms oath and affirmation, in a legal as well as a common sense view, import an appeal to a divinity of some kind or other. Bouvier in his law dictionary says: "oath is a declaration made according to law before a competent tribunal or officer to tell the truth; or it is the one who, when lawfully required to tell the truth, takes God to witness that what he says is true. It is a religious act by which the party invokes God, not only to witness the truth and sincerity of his promise, but also to avenge his imposture or violated faith, or in other words, to punish his perjury if he should be guilty of it." As usual with this author, numerous authorities are cited to maintain the definition. In Paley's Moral Philosophy, cited in Richardson's Dictionary, and adopted in defining the word oath, it is said: "but whatever may be the form of the oath the signification is the same. It is calling on God to witness, *i. e.*, to take notice of what we say, and it is invoking his vengeance or renouncing his favor, if what we say be false, or what we promise be not performed." Paley's Moral Philosophy, b. iii., ch. 16. It is to be remarked that my reverend friend only quotes the concluding paragraph of the article requiring the oath, which I have inserted at length. This article provides that all officers shall take an oath or affirmation, but no religious test shall be required. Now the true meaning and intention of this article, is simply that the kind of religious belief or mode of worship of the person should not be an exclusion from office. At this time Catholics and non-conformists were excluded in England because they could not conscientiously take the oath prescribed; and while not excluding any sect, the provision in the Constitution necessarily implies a belief in God. In Phillips' Evidence, page 8, "an examination upon oath implies that a witness should go through a ceremony of particular import, and also, that he should acknowledge the efficacy of that ceremony as an obligation to speak the truth. By taking an oath, a witness makes a formal and solemn appeal to the Supreme Being for the truth of the evidence he is about to give, and imprecates his Divine vengeance on his head, if what he shall say should be false." In rela-

tion to this 3d section of article 6, the late Judge Story in his commentaries on the Constitution, sec. 969, says: "that all those who are entrusted with the execution of the powers of the national government, should be bound by some solemn obligation, to the due execution of the trusts reposed in them and to support the Constitution, would seem to be a proposition too clear to render any reasoning necessary to support it."

"Oaths have a solemn obligation upon the minds of all reflecting men, and especially upon those who feel a deep sense of accountability to a Supreme Being." In requiring an oath, the Constitution does not ignore all religion, but the following clause was added to prevent any sectarian test from being applied. I quote again from Judge Story's Commentaries as to the true meaning of this article.

"SEC. 971. The remaining part of the clause declares that 'no religious test shall ever be required, as a qualification to any office or public trust, under the United States.' This clause is not introduced merely for the purpose of satisfying the scruples of many respectable persons, who feel an invincible repugnance to any religious test or affirmation. It had a higher object: to cut off forever every pretense of any alliance between church and State in the national government. The framers of the Constitution were fully sensible of the dangers from this source, marked out in the history of other ages and countries; and not wholly unknown to our own. They knew that bigotry was unceasingly vigilant in its stratagems, to secure to itself an exclusive ascendancy over the human mind, and that intolerance was ever ready to arm itself with all the terrors of the civil power to exterminate those who doubted its dogmas, or resisted its infallibility. The Catholic and Protestant had alternately waged the most ferocious and unrelenting warfare on each other; and Protestantism itself, at the very moment when it was proclaiming the right of private judgment, prescribed boundaries to that right, beyond which if any one dared to pass, he must seal his rashness with the blood of martyrdom. The history of the parent country, too, could not fail to instruct them in the uses and the abuses of religious tests. They there found the pains and penalties of non-conformity written in no equivocal language, and enforced with a stern and vindictive jealousy."

From section 972 I extract the following:

"It was easy to foresee that without some prohibition of religious tests, a successful sect in our country might, by once possessing power, pass test laws which would secure to themselves a monopoly of all the offices of trust and profit under the national government."

The obvious necessity and propriety of limiting this matter, if an oath was required, is apparent; but why require an oath? Simply because the framers of the Constitution proposed to add the sanctions and restraints of religion to official duty. Not Paganism or Mohammedanism, but the religion of Christianity as contained in the Bible of the Old and New Testament.

Congress, on the first of June, 1789, during the session of the first Congress, passed a law to carry this clause of the Constitution into effect, which is the law at the present day. See 1st United States Statutes at large, page 23. With this, I close what I have to say as to this clause of the Constitution, which has been strangely misinterpreted by a Doctor of Divinity.

So far from ignoring all religion and all Gods, or any God, it requires an acknowledgment and a necessary belief in religion of some kind. True, all sectarianism, or bigotry, or fanaticism, is guarded against as it should be. As to whether it recognizes the religion of Christianity, or Brahma, or Mahomet, or any other superstition, we shall have occasion to discuss hereafter; I am now only combatting the naked proposition as laid down in this book. "It is there implied," says the reverend author, "they may worship as many Gods as they

please, and worship anything as God they may choose, or *worship no God at all.*" The italics are mine. I come now to consider the remaining clause of the Constitution, being the first amendment, and the language of which I have before stated. Is there any implication in this that all religion is ignored. All these amendments may, as observed by Judge Story, be regarded rather as a bill of rights than a constitutional compact. The truth is, the Constitution has nothing to do with religion in any form, except as necessarily incidental in the case of an oath. It was not the design of its framers to ignore all religion or to establish any. It was intended to provide against any union of church and State so far as the Federal Government was concerned. It has nothing to do with the questions we are discussing in the aspect assumed by the reverend author. But on this clause I concur in the views of Judge Story, and again quote from his Commentaries on the Constitution, which are of much higher authority than any views I could present.

"SEC. 986. And first, the prohibition of any establishment of religion, and the freedom of religious opinion and worship."

"How far any Government has a right to interfere in matters touching religion, has been a subject much discussed by writers upon public and political law. The right and the duty of the interference of Government, in matters of religion, have been maintained by many distinguished authors, as well those who were the warmest advocates of free Governments, as those who were attached to Governments of a more arbitrary character. Indeed, the right of a society or Government to interfere in matters of religion will hardly be contested by any persons that believe that piety, religion, and morality are intimately connected with the well-being of the State, and indispensable to the administration of civil justice. The promulgation of the great doctrines of religion, the being, and attributes, and providence of Almighty God; the responsibility to Him for all our actions, founded upon moral freedom and accountability; a future state of rewards and punishments; the cultivation of all the personal, social and benevolent virtues; these never can be a matter of indifference in any well ordered community. It is, indeed, difficult to conceive how any civilized society can well exist without them. And at all events, it is impossible for those who believe in the truth of Christianity, as a divine revelation, to doubt that it is the especial duty of Government to foster and encourage it among all the citizens and subjects. This is a point wholly distinct from that of the right of private judgment in matters of religion, and of the freedom of public worship according to the dictates of one's own conscience.

"SEC. 987. The real difficulty lies in ascertaining the limits to which Government may rightfully go in fostering and encouraging religion. Three cases may easily be supposed. One, where a Government affords aid to a particular religion, leaving all persons free to adopt any other; another, where it creates an ecclesiastical establishment for the propagation of the doctrines of a particular sect of that religion, leaving a like freedom to all others; and a third, where it creates such an establishment and excludes all persons not belonging to it, either wholly or in part, from any participation in the public honors, trusts, emoluments, privileges and immunities of the State. For instance, a Government may simply declare, that the Christian religion shall be the religion of the State, and shall be aided and encouraged in all the varieties of sects belonging to it; or it may declare, that the Catholic or Protestant religion shall be the religion of the State, leaving every man to the free enjoyment of his own religious opinions; or it may establish the doctrines of a particular sect, as of Episcopalians, as religion of the State, with a like freedom; or it may establish the doctrines of a particular sect, as exclusively the religion of the State, tolerating others to a limited extent, or excluding all not belonging to it from all public honors, trusts, emoluments, privileges and immunities.

"SEC. 988. Probably at the time of the adoption of the Constitution, and of the amendment to it, now under consideration, the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the State, so far as is not incompatible with the private rights of conscience and the freedom of religious worship. An attempt to level all religions, and to make it a matter of State policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation.

"SEC. 989. It yet remains a problem to be solved in human affairs, whether any free Government can be permanent, where the public worship of God, and the support of religion, constitute no part of the policy or duty of the Government in any assignable shape. The future experience of christendom, and chiefly of the American States, must settle this problem, as yet new in the history of the world, abundant in experiments in the theory of Government.

"SEC. 990. But the duty of supporting religion, and especially the Christian religion, is very different from the right to forcè the consciences of other men, or to punish them for worshipping God in the manner which they believe their accountability to him requires.

"SEC. 991. The real object of the amendment was not to countenance, much less to advance Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national establishment which should give to an hierarchy the exclusive patronage of the national government. It thus sought to cut off the means of religious persecution, (the vice and pest of former ages) and the power of subverting the rights of conscience in matters of religion, which had been trampled upon almost from the days of the Apostles to the present age. The history of the parent country had afforded the most solemn warnings on this head, and even New England, the land of the persecuted Puritans, as well as other colonies, where the Church of England had maintained its superiority, had furnished a chapter as full of dark bigotry and intolerance as any which could be found to disgrace the pages of foreign annals.

"SEC. 992. It was under a solemn consciousness of the dangers from ecclesiastical ambition, the bigotry of spiritual pride, and intolerance of sects, thus exemplified in our domestic as well as in foreign annals, that it was deemed advisable to exclude from the national government all power to act on the subject." The author then refers to the predominance of different sects in different States, and concludes: "The only security was in extirpating the power. But this alone would have been an imperfect security, if it had not been followed up by a declaration of the right of free exercise of religion and a prohibition of all religious tests. *Thus, the whole power over the subject of religion is left exclusively to the State governments, to be acted upon according to their own sense of justice and State Constitutions.*" The italics are mine.

I have made this long extract because it presents in clear and appropriate language the whole case as to the construction of the Constitution of the United States, and shows where the power over this subject belongs. Perhaps the authority of the great expositor of the Constitution was unnecessary to men whose habits of thought had induced reflection on this subject; but we see the Constitution of the United States relied upon by an eminent Divine as authority on propositions entirely ignored by the instrument.

The two clauses grouped together by the reverend author of the book reviewed, have no necessary connection, but relate to entirely different subjects. I quote again from the book. "Seventhly, I do not find then, in the Constitution of the United States, or the Word of God," says the author, "any right or power conveyed to us as Christians, or as men, to persecute a fellow-man, or to subject him to any civil disability, or to impose upon him any temporal pains or penalties for his want of religion, or on account of the kind of religion he professes, nor on account of the manner of his worshipping the Supreme Being, provided he does not invade the rights of his neighbor or commit an offence against *good morals*. I do not find any authority in Christianity to turn a meeting-house into a stable, to pull down a convent, to burn down a monastery, nor to blow up a heathen temple. I do not believe *Christianity* allows us to visit the offender against the sanctity of the Sabbath with any pains or penalties." I have made this long extract from the book to show to what mere *clap trap* the author resorts; setting up cob houses to knock them down. No one contends for any power to persecute, to create civil disability, or inflict any pains or penalties for want of religion, or on

account of religion to pull down convents, or burn monasteries by authority of the Constitution of the United States, or any other authority. There are no such questions involved. I should be glad to be informed, however, what the author deems "good morals." Where does he get the code? Is it the code of Confucius, Zoroaster, Brahma, Mahomet, or the Bible? The Mormons believe in Polygamy as a religious duty. Is this good morals? Bigamy in the view of our reverend author would be admissible; any punishment of it, persecution. But the question returns, what are good morals, and from whence do you take the code? That there may be, as stated by the reverend author, an offence against good morals is admitted by him. If there may be an offence against good morals, there may be a punishment prescribed. There is no other MORALITY in these United States except that founded upon Christianity. The reverend author sees his difficulty and says: "and just so far as Mormons, &c., may on the plea of conscience be guilty of crimes and misdemeanors, and offences, in the sight of the law, the magistrate may restrain them; but not for their religion, or their want of religion, but because they are offenders against the laws of the land." Page 42.

What right have we, upon the principles of this book, to pass such laws. It invades no one's rights that a Mormon has two wives. It meddles not with the *material* interest of men, and for this only is government instituted, on the theory of this reverend Divine. The allusion to convent burning, because such a crime was once committed in the State of Massachusetts, is a fling at the New Englanders not in good taste. Perhaps it may be found that other parts of the country have not been free from intolerance. But I am going ahead of my subject.

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The Constitution of the United States, as we have seen, is a grant of powers. The constitutions of the several States are limitations of powers. The Federal Government has no powers except those specifically granted, and such as are necessary to the exercise of the powers granted. Lest there should be any controversy on this subject, Article 10 of the Amendments to the Constitution of the United States is the following: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The State governments are sovereignties, and except so far as they have voluntarily granted away powers incident to sovereignty, have exclusive control over all political subjects, limited only by the organic law—the Constitution of the State.

In the early history of the country, parties divided upon this subject of the powers of the Federal and State Governments; the Federal party claiming under the grant to provide for the general welfare, and under the implied powers necessary to carry the express powers into effect, power to incorporate a bank and make internal improvements, and generally to effect all such objects of general utility as are incident to the exercise of sovereign authority. The democratic party, on the contrary, contended that the Federal Government was confined to the powers expressly granted, and to such as were *absolutely* necessary to carry into effect the powers granted. This controversy may be deemed ended by the triumph of the strict constructionists, and the fear that the Federal Government would not have sufficient power under the Constitution to successfully conduct our affairs, and

which was no doubt honestly entertained by the early Federalists, has proved groundless. When, therefore, we speak of constitutional and organic laws, we are to bear in mind the peculiar nature of our government, and the several relations which the States bear to the Federal Union. On page 56, the author of this book says: "I do not understand it to be the province of the Government of the United States to interfere with different religious views, nor to determine what religion is true or what is false." I do not suppose any one claims for either the Federal or State Governments the exercise of any such power, and certainly no one ever pretended the Government of the United States has any such power. This loose and inaccurate mode of stating positions, and then readily overthrowing them, is the great vice of this book, as I have before intimated. There is no intention in the Reverend author to mislead and deceive; but from the diffuse nature of his style, and the haste with which the book was probably composed, it assumes that any legislation which may promote or secure the morals of Christianity, is religious legislation, sectarian, and opposed to fundamental laws. Religious liberty, in its fullest extent, is guaranteed by our fundamental laws, but we shall contend it is perfectly consistent with this religious liberty to promote good morals by legislation. All our laws have more or less reference to morality, as founded upon Christianity, and he who is ignorant of morality as founded upon the Bible of the Old and New Testament, is wholly unfit for the business of legislation or government. For the simple reason that the modes and habits of thought of a people, their traditions, their superstitions even, enter into and make part of their legislation in all countries. Our system of law is divided into the *lex scripta*, being the statute or written law, and *lex non scripta*, which is made up of general customs and usages, which have long prevailed, and become incorporated into and form part of the social organization, which no wise man can disregard, or human power eradicate. This is what we call common law. Legal philosophy consists in the adaptation of the general sentiments of a people to promote the greatest advancement of the general welfare. As it regards religion, sectarian dogmatism and bigotry are restrained by our constitutions and laws; but no laws were ever yet made or will ever be, which do not have, in respect to things forbidden or enjoined, their foundation in a great degree upon the kind of religion interwoven with the habits and thoughts of the people of the country where made. The history of the world has not yet furnished us with an example of any civilized or semi-civilized people, without any religion. My limits do not allow of more discussion on this subject, from reason or authority, for the truth of the matter must be evident to any reflecting mind. It is for this reason that Christianity is part of the common law of England and of the United States. In the book I am reviewing, the 9th proposition is: "Common law does not allow legislation against the rights of conscience." This is a sensation paragraph. No one claims that it does; that is not the proposition sought to be maintained in the lecture of Mr. Haight (note A). This lecture is not before me; but if I recollect right, the general principle is sought to be maintained, that Christianity is part of the common law. The discussion, however, was mainly confined to what had been held to be the common law of England, which is ours, except as modified by our laws, and except as inapplicable to our circumstances. The term "Protestant" Christianity occurs but once, if I recollect correctly, in the lecture, and then in connection with what was the Eng-



lish common law, as expounded by Lord Hale and Lord Raymond; as to that, it was perhaps correct. The proposition sought to be maintained was, that Christianity is part of the common law, and that an offense against Christianity is punishable by the common law. At least, this is all that I shall endeavor to maintain. I do not join in what I deem an unnecessary and groundless alarm as to Catholics, Jesuits, etc., and on this subject do not differ from the author of this book, though perhaps I do from the editor of this paper, and a very large class of Protestants. I think with Mr. Jefferson: "Error may be allowed to prevail where reason is left free to combat it." Indeed, Roman Catholicism is a necessity of the country, for how otherwise a large portion of our fellow-citizens who have emigrated to our shores were to be brought under any religious influence, I have always been unable to perceive. As to converting the people of this country to the support of the Roman hierarchy, if the idea is entertained, either by Roman Catholics or Protestants, it is in my *individual* judgment simply absurd. Religion advances where the antagonism of sects is left free, and Roman Catholicism in this country can never be what it is in Spain or Mexico, simply for the reason that though Bishops or Priests may desire power, and neither Catholics or Protestants have been exempt from such aspirations, the laity under the influence of free institutions will never submit to any priestly or hierarchical rule, be it Catholic or Protestant. Before analyzing the Constitution of our own State, I will proceed to review what, under this 9th proposition, is sought to be maintained—that Christianity is no part of the common law. The proposition, according to the usual manner of the book, is a misstatement. The question is not whether the common law allows legislation against the rights of conscience, but whether Christianity is recognised by the common law. The common law is not founded on legislation. It is the *lex non scripta*, and the proposition is as absurd in its startling announcement as it is untrue when used to designate the argument of those who maintain Christianity to be part of our common law. I need not remark that the common law of England, except as altered by legislation, and except as inapplicable to our circumstances and condition, is the rule of decision in all the States of this Union, Louisiana only excepted. Why was it not in Louisiana, I may ask? Simply because, as before stated, the people there had been living under another code, and all their habits, thoughts, social relations, were interwoven with the civil law, as modified and adapted to the condition of Spain and her colonies. It was therefore a necessity to conform the laws to the people.

This inquiry, as a legal question, is important, because we must have some starting point, and if Christianity is part and parcel of the common law, then it is only to be inquired how far any State constitutional restraints affect the subject. It must be borne in mind that the State Constitution is a limit upon the exercise of power, and the sovereignty of the legislative power is otherwise unlimited. Let us look at the reasoning of the book. On page 59 of the book it is asked: "But has it not been also decided by the highest colonial authority in Great Britain, that Englishmen, in planting new colonies, are emancipated from all *spiritual* jurisdiction? And on declaring our national independence, if not before, and in effecting our deliverance from an established church, did we not free ourselves from all the laws, *common* as well as statute, that prevailed in England as to religion? I think so, except so far as relates to the protection—not the promoting or restrain-

ing of religion—but as to the protection of all citizens in the enjoyment of their religious opinions.” The question asked as to planting new colonies, has no application. Simply for the reason that prior to the Revolution in some, and since, with one exception, in all the States, the common law of England, with exceptions as before stated, is made the rule of decision by legislative enactment. Our revolution and national independence had nothing to do with what the laws of each particular State should be as to this or any other subject, in reference to domestic police or social organization. In Virginia there was an established church, the Episcopal or Church of England, and remained so, as stated by the Reverend author, until 1785. Other colonies had laws making provision for the support of religion and its ministers; this subject was left where the revolution found it. The several colonies had no union with each other until the revolution and the articles of confederation. These do not touch this subject. They granted certain powers for the common good and general welfare. All the colonies had before this introduced the common law, and the States since admitted, with the exception before stated, have done the same thing. To show, however, what were the views on this subject of the founders of the government, we may refer to Symmes’ purchase, and that of the Ohio Company. These sales of land were made by the Congress held under the old articles of confederation, and before the adoption of the present Constitution of the United States, and may bear upon the argument in the period of our history referred to by the Reverend author. These were the first and largest sales of land made by the government; and by the terms of the contract, section 29 was reserved in each township for *the support of religion*; and section 16 in each township for the support of schools. The preliminary contracts were made before the adoption of the Constitution, but the legislation of Congress afterwards settled and confirmed these purchases, and in pursuance of law a patent was issued to J. C. Symmes, by GEORGE WASHINGTON, President, the 30th day of September, 1794, containing the aforesaid reservations. (Clark’s Land Laws, etc., page 370.) It is unnecessary to discuss what kind of religion this reservation was to support; none will pretend that it was other than Christian. Reservations for the support of religion have not been made in subsequent sales. The Reverend author admits there are learned authorities in favor of the proposition that Christianity is part of the common law. It may also be affirmed there is no respectable judicial decision to the contrary as yet produced. That such is the common law of England is beyond question. While it may be said of the Reverend author, that as to theological lore, and Biblical history, “*non tetigit quod non ornavit*,” his legal criticisms remind us also of another adage: “*ne sutor ultra crepulam*.” I shall leave the judgment of Lord Raymond, in which the court concurred, reported in Strange, page 834. That of the court, Chief Justice Hale giving the opinion in 1st Ventris, 293; Woodeson’s Lectures, vol. 2, page 517, and Blackstone’s Commentaries, page 59; Chitty’s Blackstone, and some other of the older authorities, because it seems conceded that such *was* the common law of England. I know not how we are to ascertain what the common law is, except from reported judicial decisions of the highest courts; and when we find them all one way, there can be no further question. Says our author on page 61: “And Sir Matthew Hale, without quoting any authority, decided in some of his witch-condemning trials, that ‘Christianity is parcel of the laws of England.’” I have not the case

before me, but this statement of the author, that this decision was made in a witch-condemning trial, is not true, according to my recollection. It was Taylor's case, and an indictment for blasphemy, "and thus," says our author, "by the echoings and re-echoings, it became so established in 1728, that all blasphemy and profaneness were offenses indicted at common law." How do you ascertain what the law is, except by these "echoings and re-echoings?" If judicial decisions are not evidence of what the law is, then there is no evidence, and each one is left to do as seemeth good in his own eyes. The author intimates that a different construction of the common law has obtained in England since 1825. If he means to say that since 1825 it has been decided by any of the courts of Westminster Hall, that Christianity is not parcel of the common law of England, he ought to maintain it by quoting his authority. Those mentioned do not justify any such assertion. I have before me the case of *Rex vs. Waddington*, decided in 1822, 1 B. and C., page 26; *Smith vs. Sparrows*, 4th Bing. R. 84, 88, decided in 1827 directly to the contrary.

But leaving the English cases for the present, let us see how this is understood on this side of the Atlantic. In Wharton's Criminal Law, an American work which has passed through four editions, the last published in 1857, it is said, S. 2536: "Christianity is part of the common law of the land, and maliciously to revile it is an indictable offence." Many American authorities are cited for this proposition, a few of which I shall notice. Mr. Jefferson's letter, and the criticism on the opinion of Lord Mansfield, I will notice hereafter. In the case of *The People vs. Ruggles*, 8th John. Rep. 225, the distinct proposition we are discussing was at issue. The defendant was indicted and tried for blasphemy, before a court of Oyer and Terminer, held by Judge Spencer and the Judges of the Common Pleas in Washington county, New York. The record was removed into the Supreme Court, and Wendell, counsel for the defendant, contended "that the offense charged in the indictment was not punishable by the law of this State, though he admitted it was punishable by the common law of England, *where Christianity makes part of the law of the land*, on account of its connection with the Established Church." "But from the preamble and the provisions of the Constitution of this State, and the silence of the Legislature, it was to be inferred that Christianity did not make a part of the common law of this State." Gold *contra* said: "That the common law of England was adopted by the Constitution, and made part of the law of the State." "That blasphemy was punishable, not on account of there being an Established Church, but it was a principle coeval with the English law, and had stood unshaken amidst all the revolutions and changes in Church and State." He further said: "while the Constitution of this State has saved the rights of conscience, and allowed a free and fair discussion of all points of controversy among religious sects, it has left the principle engrafted on the body of our common law, *that Christianity is part of the laws of the State, untouched and unimpaired.*" I omit his citations of authorities. It will be perceived the precise point is here made. The unanimous opinion of the Court was delivered by the late Chancellor Kent, then Chief Justice of the Supreme Court, "*clarum venerabile nomen.*" The Chief Justice, after referring to various English authorities, for which see his opinion, and deciding that Christianity was part of the common law of England, says: "and why should not the language in this indictment be still an offense with us? There

is nothing in our manners or institutions which has prevented the application or the necessity of this part of the common law. We stand equally in need now, as formerly, of all that moral discipline, and of those principles of virtue, which help to bind society together. The people of this State, in common with the people of this country, profess the general doctrines of Christianity as the rule of their faith and practice; and to scandalize the author of these doctrines, is not only in a religious point of view, extremely impious, but, even in respect to the obligations due society, is a gross violation of decency and good order."

\* \* \* "Things which corrupt moral sentiment, as obscene actions, prints and writings, and even gross instances of seduction, have, upon the same principle, been held indictable; and shall we form an exception in these particulars to the rest of the civilized world? No government among any of the polished nations of antiquity, and none of the institutions of modern Europe, (a single and monitory case excepted) ever hazarded such a bold experiment upon the solidity of the public morals, as to permit, with impunity, and under the sanction of their tribunals, the general religion of the community to be openly insulted and defamed. The very idea of jurisprudence with the ancient lawgivers and philosophers, embraced the religion of the country. *Jurisprudencia est divinarum at que humanorum rerum notitia.* Dig. b. 1, 10, 2, Cic. De Legibus, b. 2 *Passim.*"

"The free, equal and undisturbed enjoyment of religious opinion, whatever it may be, and free and decent discussions on any religious subject, are granted and secured; but to revile, with malicious and blasphemous contempt, the religion professed by almost the whole community, is an abuse of that right. Nor are we bound by any expressions in the Constitution, as some have strangely supposed, either not to punish at all, or to punish indiscriminately the like attacks upon the religion of *Mahomet* or of the grand *Lama*; and for the plain reason, that the case assumes that we are a Christian people, and the morality of the country is deeply engrafted upon Christianity; and not upon the doctrines or worship of those impostors." \* \* \* \* \*

"Though the Constitution has discarded religious establishments, it does not forbid judicial cognizance of those offenses against religion and morality, which have no reference to any such establishment, or to any particular form of government, but are punishable because they strike at the root of moral obligation, and weaken the security of the social ties."

"The object of the 38th article of the Constitution was, to 'guard against spiritual oppression and intolerance,' by declaring that 'the free exercise and enjoyment of religious profession and worship, without discrimination or preference, should forever thereafter be allowed within the State, to all mankind.' This declaration (noble and magnanimous as it is, when duly understood) never meant to withdraw religion in general, and with it the best sanctions of moral and social obligations, from all consideration and notice of the law. It will be fully satisfied by a free and universal toleration, without any of the tests, disabilities or discriminations incident to a religious establishment. To construe it as breaking down the common law barriers against licentious, wanton and impious attacks upon Christianity itself, would be an ENORMOUS PERVERSION of its meaning. The *proviso* guards the article from such dangerous latitude of construction, when it declares, that '*the liberty of conscience hereby granted shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this State.*'"

The preamble and this *proviso* are a species of commentary upon the meaning of the article, and they sufficiently show that the framers of the Constitution intended only to banish test oaths, disabilities and the burdens, and sometimes the oppressions of church establishments; and to secure to the people of this State freedom from coercion, and an equality of right, on the subject of religion. This was no doubt the consummation of their wishes. It was all that reasonable minds could require, and it had long been a favorite object on both sides of the *Atlantic*, with some of the most enlightened friends to the rights of mankind, whose indignation had been aroused by infringements of the liberty of conscience, and whose zeal was inflamed in the pursuit of its enjoyment. That this was the meaning of

the Constitution is further confirmed by a paragraph in a preceding article, which specially provides that "such parts of the common law as might be construed to establish or maintain any particular denomination of Christians or their ministers," were thereby abrogated.

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"Surely, then, we are bound to conclude, that wicked and malicious words, writings and actions which go to villify those gospels, continue, as at common law, to be an offense against the public peace and safety. They are inconsistent with the reverence due to the administration of an oath; and, among other evil consequences, they tend to lessen, in the public mind, its religious sanction.

"The Court are accordingly of opinion that the judgment below must be affirmed."

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Julius, a writer in the *Times*, seems disposed to question my morality and christianity, especially that I should attack the book of a reverend author and endeavor to show that it is subversive of all sound principles of Christian morality. The writer of this makes no claims to great purity in religion or morals: were he a disbeliever he would not less strongly reprobate the principles of this book, because, in the language of the late Chancellor Kent, "it strikes at the foundation of social order."

My long quotations from the opinions of learned Judges do not seem to be agreeable. I did not expect they would be. I make them to show where the truth and authority is on this subject. I do not regard the opinion of Dr. Scott, or my own, of much consequence; but as he has chosen to take a tilt at principles always maintained and upheld by the wise and good of every age, I propose to publish these opinions for the information of those not much conversant with such subjects, in the hope of preventing any corruption of the public mind by such a book from such a source. I am merely a compiler.

In the case of *Updegraph v. The Commonwealth*, 11 *Sergeant & Rawle*, 394, the point was made before the Supreme Court of Pennsylvania, that Christianity was no part of the common law of this country. That this part of the common law was virtually repealed by the Constitution of the United States and the State of Pennsylvania. In September, 1824, the opinion of the Court was delivered by Duncan, J., and I commend the long extracts I shall give to all lawyers and divines who are wandering on the dark mountains of error. The Judge says, on page 399:

"The bold ground is taken, though it has often been exploded, and nothing but what is trite can be said upon it; it is a barren soil upon which no flower ever blossomed; the assertion is once more made, that Christianity never was received as part of the common law of this Christian land; and it is added, that if it was, it was virtually repealed by the Constitution of the United States, and of this State, as inconsistent with the liberty of the people, the freedom of religious worship, and hostile to the genius and spirit of our Government; and, with it, the act against blasphemy; and if the argument is worth anything, all the laws which have Christianity for their object, all would be carried away at one fell swoop; the act against cursing and swearing, and breach of the Lord's day, the act forbidding incestuous marriages, perjury by taking a false oath upon the book, fornication and adultery, *et peccatum illud horribile non nominandum inter christianos*—for all these are founded on Christianity—for all these are restraints upon civil liberty, according to the argument—edicts of religious and civil tyranny, when enlightened notions of the rights of man were not so universally diffused as at the present day."

"We will first dispose of what is considered the grand objection—the Constitutionality of Christianity—for in effect that is the question.

“Christianity, general Christianity, is, and always has been, a part of the common law of Pennsylvania; Christianity, without the spiritual artillery of European countries; for this Christianity was one of the considerations of the royal charter, and the very basis of its great founder, William Penn; not Christianity founded on any particular religious tenets; not Christianity with an established Church, and tithes, and spiritual Courts; but Christianity with liberty of conscience to all men. William Penn and Lord Baltimore were the first legislators who passed laws in favor of liberty of conscience; for before that period the principle of liberty of conscience appeared in the laws of no people, the axiom of no Government, the institutes of no society, and scarcely in the temper of any man. And to the wilds of America, peopled by a stock cut off by persecution from a Christian society, does Christianity owe true freedom of religious opinion and religious worship. There is in the very act of 1700, a precision of definition, and a discrimination so perfect between prosecutions for opinions seriously, temperately and argumentatively expressed, and despicable railings, as to command our admiration and reverence for the enlightened framers. From the time of Bracton, Christianity has been received as part of the common law of England. I will not go back to remote periods, but state a series of prominent decisions, in which the doctrine is to be found. The *King v. Taylor*, Ventr. 93, 3 Keb. 507, the defendant was convicted on an information, for saying that Christ Jesus was a bastard, a whore-master, and religion a cheat. Lord Chief Baron Hale, the great and good Lord Hale, (no stickler for church establishments) observed, ‘that such kind of wicked and blasphemous words were not only an offense against God and religion, but against the laws of the State and Government, and therefore punishable; that to say religion is a cheat, is to dissolve all those obligations by which civil societies are preserved; and that Christianity is part of the law of England, and therefore to reproach the Christian religion is to speak in subversion of the laws.’ In the case of *The King v. Woolaston*, 2 Stra. 884; Fitzg. 64; Raymond 162, the defendant had been convicted of publishing five libels, ridiculing the miracles of Jesus Christ, his life and conversation, and it was moved in arrest of judgment, that this offense was not punishable in temporal courts, but the Court said they would not suffer it to be debated, ‘whether to write against Christianity generally was not an offense of temporal cognizance.’ It was further contended, that it was merely to show that those miracles were not to be taken in a literal but allegorical sense, and therefore, the book could not be aimed at Christianity in general, but merely attacking one proof of the Divine mission. But the Court said, the main design of the book, though professing to establish Christianity upon a true bottom, considers the narrations of scripture as explanative and prophetic, yet that these professions could not be credited, and the rule is *allegatio contra factum non est admittendum*. In that case the Court laid great stress on the term *general*, and did not intend to include disputes between learned men on particular and controverted points; and Lord Chief Justice Raymond, Fitzg. 66, said: ‘I would have it taken notice of, that we do not meddle with the difference of opinion, and that we interfere only where the root of Christianity is struck at.’ The information filed against the celebrated Wilkes, was for publishing an obscene and infamous libel, tending to vitiate and corrupt the minds of the subjects, and to introduce a total contempt of religion, morality and virtue, to blaspheme Almighty God, to ridicule our Saviour and the Christian religion. In the justly admired speech of Lord Mansfield, in a case which made much noise at the time, *Evans v. Chamberlain*, of London; *Furneaux’s* letters to Sir W. Blackstone; Appx. to Black. Com., and 2 Burns Eccles. law, p. 95, the great, and wise, and learned Judge observes: ‘The true principles of natural religion are part of the common law; the essential principles of revealed religion are part of the common law; but temporal punishments ought not to be inflicted for mere opinions.’ Long before this, much suffering, and a mind of strong and liberal cast, had taught this Christian precept to William Penn. The charter of Charles II recites, that ‘whereas our trusty and beloved William Penn, out of a commendable desire to enlarge our English Empire, as also to reduce the savages, by gentle and just measures, to the love of civil society and the Christian religion, hath humbly besought our leave to translate a colony, &c.’ The first legislative act in the colony was the recognition of the Christian religion, and establishment of liberty of conscience. Before this, in 1646, Lord Baltimore passed a law in Maryland in favor of religious freedom; and it is a memorable fact, that of the first legislators, who established religious freedom, one was a ROMAN CATHOLIC, and the other a FRIEND.”

This is the Christianity of the common law incorporated in the great law of Pennsylvania, and thus it is irrefragably proved that the law and institutions of

this State are built on the foundation of reverence for Christianity. Here was complete liberty of conscience with the exception of disqualification for office of all who did not profess faith in Jesus Christ. This disqualification was not contained in the Constitution of 1776; the door was open to any believer in God, and so it continued under our present Constitution, with the necessary addition of a belief in a future state of rewards and punishments. On this, the Constitution of the United States has made no alteration, nor in the great body of the laws which was an incorporation of the common law doctrine of Christianity as suited to the condition of the colony, and without which no free Government can long exist. Under the Constitution, penalties against cursing and swearing have been exacted. If Christianity was abolished, all false oaths, all tests by oath in the common form by the book, would cease to be indictable as perjury. The indictment must state the oath to be on the Holy Evangelists of Almighty God. The accused on his trial might argue that the book by which he was sworn, so far from being holy writ, was a pack of lies, containing as little truth as Robinson Crusoe. And is every jury in a box to decide as a fact whether the Scriptures are of divine origin?

Let us see what have been the opinions of our Judges and Courts. The late Judge Wilson, of the Supreme Court of the United States, Professor of Law in the College in Philadelphia, was appointed in 1791 unanimously by the House of Representatives of this State, to "revise and digest the laws of this Commonwealth, to ascertain how far any British statutes extended to it; and to prepare bills containing such alterations and additions as the code of laws, and the principles and forms of the Constitution, then lately adopted, might require." He had just risen from his seat in the Convention which formed the Constitution of the United States, and of this State; and it is well known, that for our present form of government we are greatly indebted to his exertions and influence. With his fresh recollection of both Constitutions, in his course of lectures, 3d vol. of his works, p. 112, he states that profaneness and blasphemy are offenses punishable by fine and imprisonment, and that Christianity is part of the common law. "It is vain to object that the law is obsolete; this is not so; it has seldom been called into operation, because this, like some other offenses, has been rare. It has been retained in our re-collection of laws now in force, made by direction of the Legislature, and it has not been a dead letter.

"No society can tolerate a willful and despiteful attempt to subvert its religion, any more than it would to break down its laws—a general malicious and deliberate intent to overthrow Christianity, general Christianity. This is the line of indication where crime commences, and the offense becomes the subject of penal visitation. The species of offense may be classed under the following heads:

"1st. Denying the Being and Providence of God.

"2d. Contumelious reproaches upon Jesus Christ; profane and malevolent scoffing at the Scriptures, or exposing any part of them to contempt and ridicule.

"3d. Certain immoralities tending to subvert all religion and morality, which are the foundation of all governments.

"Without these restraints, no free government could long exist. *It is liberty run mad* to declaim against the punishment of these offenses, or to assert that the punishment is hostile to the spirit and genius of our government. They are far from

being true friends to liberty who support this doctrine, and the promulgation of such opinions, and general receipt of them among the people, would be the sure forerunners of anarchy, and finally of despotism. Amidst the concurrent testimony of political and philosophical writers among the Pagans, in the most absolute state of democratic freedom, the sentiments of Plutarch on this subject are too remarkable to be omitted. After reciting the first and greatest care of the legislators of Rome, Athens, Lacedæmon, and Greece in general, was by instituting solemn supplications and forms of oaths to inspire them with a sense of the favor or displeasure of Heaven, that learned historian declares, that we have met with towns unfortified, illiterate, and without the conveniences of habitations; but a people wholly without religion, no traveler hath yet seen; and a city might as well be erected in the air, as a State made to unite where no Divine worship is attended. Religion he terms the cement of civil union and the essential support of legislation. No free government now exists in the world, unless where Christianity is acknowledged, and is the religion of the country. So far from Christianity, as the counsel contends, being a part of the machinery necessary to despotism, the reverse is the fact. Christianity is part of the common law of this State. It is not proclaimed by the commanding voice of any human superior, but expressed in the calm and mild accents of customary law. Its foundations are broad, and strong, and deep; they are laid in the authority, the interest, the affections of the people. Waiving all questions of hereafter, it is the purest system of morality, the firmest auxiliary, and the only stable support of all human laws. It is impossible to administer the laws without taking the religion which the defendant in error has scoffed at, that Scripture which he reviled, as their basis; to lay aside these is at least to weaken the confidence in human veracity, so essential to the purposes of society, and without which no question of property could be decided, and no criminal brought to justice. An oath in the common form, on a discredited book, would be most idle ceremony. This Act was not passed, as the counsel supposed, when religious and civil tyranny were at their height,—but on the breaking forth of the sun of religious liberty, by those who had suffered much for conscience sake, and fled from ecclesiastical oppression. The counsel is greatly mistaken in attributing to the common law the punishment at the stake and by the faggot. No man ever suffered at common law for any heresy. The writ *de hæretico comburendo*, and all the sufferings he has stated in such lively colors, and which give each a frightful though not exaggerated picture, were the enactments of positive laws, equally barbarous and impolitic. There is no reason for the counsel's exclamation: Are these things to be revived in this country, where Christianity does not form a part of the law of the land? It does form, as we have seen, a necessary part of our common law; it inflicts no punishments for a non-belief in its truths; it is a stranger to fire and faggots; and this abused statute merely inflicts a mild sentence on him who bids defiance to all public order, disregards all decency by contumelious reproaches, scoffing at and reviling that which is certainly the religion of the country; and when the counsel compared this Act against blasphemy to the Act against witchcraft, and declared this was equally absurd, I do not impute that to him which I know his heart abhors, a scoffing at religion, but to the triteness of the topics. It is but a barren field, and must contain a repetition of that which has been so often advanced and so often refuted. It is not argument. And Chief



Justice Tilghman observes, that as every country has its own common law, ours is composed partly of our own usages. When our ancestors emigrated from England, they took with them such of the English principles as were convenient for the situation in which they were about to be placed. It required time and experience to ascertain how much of the English law would be suitable to this country. The minds of William Penn and his followers would have revolted at the idea of an established church. Liberty to all, preference to none; equal privilege is extended to the mitred Bishop and the unadorned Friend.

“This is the Christianity which is the law of our land; and I do not think it will be the invasion of any man's right of private judgment, or of the most extended privilege of propagating his sentiments with regard to religion, in the manner which he thinks most conclusive. If from regard to decency and the good order of society, profane swearing, breach of the Sabbath, and blasphemy, are punished by civil magistrates, these are not punished as sins or offenses against God, but crimes injurious to, and having malignant influence on society; for it is certain, that by these practices no one pretends to prove any supposed truths, detect any supposed error, or advance any sentiment whatever.”

Such was the opinion of the Supreme Court of Pennsylvania, delivered by Duncan, J., in this much contested case. It was an indictment for blasphemy under a colonial act of 1700, and the question was whether it was abrogated by the constitutions and laws of the State and Federal governments. I refer next to the case of *The State vs. Thomas Jefferson Chandler*, decided at the November Term, 1837, of the Supreme Court of Delaware, and reported in 2d Harrington, p. 553. This case contains also a vindication of the maxim, “that the Christian religion is part of the common law;” but I shall extract from the opinion of the Court delivered by the late J. M. Clayton, then Chief Justice, mainly for the purpose of showing the weakness and imbecility exhibited in the famous letter of Mr. Jefferson to Maj. Cartwright, which letter seems the great foundation of the argument in this book, for all its ideas and principles, and much of the language, is adopted. Mr. Jefferson was not distinguished as a common law lawyer. He was in early life a lawyer, but soon engaged in politics, and never returned to the profession. He is also a strange authority for a divine to cite on any matter connected with Christianity; but to show how utterly unfounded his legal criticism was, attention is asked to the opinion of Chief Justice Clayton, and the somewhat dry details necessary to understand the subject. Especially it will be seen that he was guilty of quoting a translation for Finch which he never made. The Court, after the citation of numerous authorities, and concurring with the cases before referred to from New York and Pennsylvania, notices this letter on page 558:

“The defendant's counsel,” (says the Court,) “in the progress of the argument on this subject, referred to a letter written by Thomas Jefferson to Major Cartwright, dated June 5th, 1823, and published in the fourth volume of his posthumous works. This letter we notice, because respectable counsel have cited it; it is phrased in terms more becoming the newspaper paragraphs of the day, than the opinion of a grave jurist who feels respect for the memory of the eminent lawyers of England, because he knows and can appreciate their worth. The opinion of Lord Mansfield, who was one of the brightest luminaries of the common law, palpably misunderstood by this writer, is by him denounced as a *judicial forgery*! He considers and so states, that by this maxim mentioned by Lord Mansfield, which recognizes revealed religion as a part of the common law, his lordship had ‘engulphed Bible, Testament and all into the common law,’ whereas, this mode of garbling a remark, and then replying to it, has done gross injus-

tice to that great man whose celebrated argument for religious toleration in the English House of Lords, in the case of Evans, does by no means justify the imputation cast upon him. So far from meaning that Bible and Testament were parts of the common law for other purposes than that of punishing for the subversion, reviling or ridiculing them: so far from pretending that any man could be punished by the common law for mere infidelity, or for worshipping God as he pleases, or for any violation of any Divine precept not expressly adopted by man as human law, which would make courts and juries the regulator of every man's conscience, Lord Mansfield expressly says: 'conscience is not controllable by human laws, nor amenable to human tribunals; persecution, or attempts to force conscience, will never produce conviction, and are only calculated to make hypocrites or martyrs.' 'There is nothing,' he adds, 'more unreasonable, more inconsistent with the rights of human nature, more contrary to the spirit and precepts of the Christian religion, more iniquitous or unjust, more impolitic, than persecution. It is against natural religion, revealed religion, and sound policy.'

Mr. Jefferson endeavors to show that the maxim that Christianity is a part of the common law of England is entirely derived from an opinion of Prisot in the year book 34, H. C. folio 38, (145-8). In a case *quare impedit*, a question was made how far the ecclesiastical law was to be respected in a common law court. And Prisot gives his opinion in these words: "*Prisot—a tiels Leys que ils de sainte Eglise ont en auncient scripture covient pour nous a douer credence; car ceo est common Ley seur vuels tous manner Leys sout fondues,*" &c., (see Fitz. abr. qu. im. 89. Bro. abr. qu. imp. 12). The whole of Mr. Jefferson's complaint is, that Finch has mistaken this passage, by translating "auncient scripture" *holy scripture*. Mr. Jefferson translates Prisot's Norman French so as to make him decide "that to such laws of holy church as have warrant in *ancient writing* it is proper for us to give credence," while, says he, Finch interprets the passage "to such laws of the church as have warrant in *holy scripture* our law giveth credence." Now the question which the judge was discussing when he delivered this opinion was, whether the sentence of the Bishop or ecclesiastical courts should have faith and credit at common law. He made the same decision that was afterwards made in the case reported 11 H. 7-9, and again in Caudrey's case, "it was resolved by the whole court, that the sentence given by the Bishop, by the consent of his colleagues, was such as the judges of the common law ought to allow to be given according to the ecclesiastical laws; for seeing their authority is to proceed and give sentence in ecclesiastical law, and they have given a sentence in a cause ecclesiastical upon their proceedings, by force of that law; *the judge of the common law ought to give faith and credit to their sentence, and allow it to be done according to the ecclesiastical law.* For, *cui libet in sua arte perito credendum est.* And this, says Lord Coke, "is the common received opinion of all our books," for which he then cites the very case, 34 H. g. 14, where the opinion is given by Prisot. The point decided was the legal principle that the sentence of a competent court of exclusive and peculiar jurisdiction is conclusive, where that sentence comes incidentally in another court. The judge therefore, concluded that "if it could appear to us (the common law judges,) that the Bishop has done as an ordinary may do in such a case," (that is not exceeded his jurisdiction,) "then we ought to adjudge these good, or otherwise." According to what Mr. Jefferson calls Finch's interpretation, the judge decided that the sentence of the ecclesiastical tribunal, when warranted by the *holy scriptures*, should be credited in a common law court as the decision of a competent tribunal, provided the ecclesiastical tribunal did not exceed its jurisdiction. According to Mr. Jefferson's version, the judge decided that the same sentence, when warranted by the *ancient*

*written laws*, should be acknowledged and credited. What these written laws were, Mr. Jefferson does not inform us; but the common law was emphatically the *lex non scripta* or unwritten law, as contradistinguished from the statute law, and Mr. Jefferson probably knew that; he must have intended either statutes of Parliament or the written laws of the church. The statutes of Parliament could not have been intended, for they did not regulate the ecclesiastical jurisdiction; and the words "*carceo est common ley seur que tous manner leys sout fandues*," when applied to them would be nonsense. For how could they be said to be the foundation of all human laws. If by written laws Mr. Jefferson meant the written laws of the church at that day, they, at that day, credited the holy scriptures, and professed to be built upon them. The ecclesiastical tribunals, as we all know from Caudrey's case, assumed jurisdiction of all offenses purely against God and the holy Scriptures, *pro salute animæ*, without reference to the mere effect of such offenses against the peace of society, which the common law never did. But the common law judges, by yielding up the jurisdiction to the ecclesiastical courts, refused to reverse or revise their decisions, when incidentally or collaterally presented in a common law court, thus simply recognizing those actions as ecclesiastical and not as common law, did no more intend to acknowledge the laws of the holy church as common law, than they intended to acknowledge admiralty law as common law when they gave faith and credit to an admiralty decision. It is not within our knowledge that any common law judge has cited this case in the Year Book, or referred to it in any manner to prove his position in deciding a case of blasphemy, that the malicious reviling of Christianity was punishable at common law. The labor with which Jefferson has searched the Year Book to convict Finch of a mistranslation would have been saved, had he been aware that he was only proving by his own construction of the passage, that the ecclesiastical law was founded in the *written laws of the church*, and not in the *Scriptures* alone. As friends of religious liberty, we would prefer that the common law should have "engulphed Bible and Testament," rather than the laws of the church as understood at that day, which not only professd to comprise the Bible and Testament, but usurped an entire control over the consciences of men; and *pro salute animæ* issued their writ *de heretico comburendo*, or burnt the body under pretext of saving the soul.

Having thus seen Mr. Jefferson's premises, let us next consider the argument built upon them to convict Mansfield of judicial forgery. He says that Hale decided that Christianity was parcel of the laws of England, but quoted no authority; that by such echoings and re-echoings from one to another in 1728, the court (composed of Lord C. J. Raymond, and Large, Reynolds and Probyn, Justices,) in the case of *King v. Woolston*, for blasphemy, 2 Str. 834, would not suffer it to be debated, whether writing against Christianity *in general*, was punishable in the temporal courts at common law; that justice Blackstone adopts Hale's opinion, and cites the adjudged cases; and, finally, that Lord Mansfield used the words before quoted as delivered by him in Evans' case, "that the essential parts of revealed religion are parts of the common law;" "thus," says Mr. Jefferson, "engulphing Bible, Testament and all, without citing any authority." "And thus," he adds, we find this chain of authorities hanging link by link one upon another, and all, *ultimately upon the same book, and that a mistranslation of the*

*word ancient Scripture used by Prisot.*" He concludes that he "might defy the best bred lawyer to produce another script of authority to prove this judicial authority." This letter-writer, then, first admits expressly, that neither Hale nor Mansfield had cited any authority for their opinions, and immediately after, charges the principles for which their great names are cited, with hanging upon what he calls a mistranslation of the words used by Prisot. He thought that his erudition had enabled him to detect the very source from which their ignorance and folly, or their knowledge had sprung. Had Hale and Mansfield quoted the passage from Prisot which Jefferson has thus plumed himself upon the translation of, as the foundation for a judicial opinion, then they would have been responsible for the translation of the passage; but neither of them quoted the Year Book. Long before Lord Hale decided that Christianity was a part of the laws of England, the Court of Kings Bench, 34 Eliz. in Ratcliff's case; 3 Coke Rep. 49 b., had gone so far as to declare that "in almost all cases, the common law was grounded on the law of God," which it was said was *causa causans*, and the court cited the 27th chapter of Numbers to show that their judgment on a common law principle in regard to the law of inheritance, was founded on God's revelation to Moses. Mr. Hargrave in his note on Co. Lit., 11 b., observes that "this inference from God's precept to Moses is unwarranted, unless it can be shown that it was promulgated as a law for mankind in general, instead of being like many other parts of the Mosaic law, a rule for the direction of the Jewish nation only." The author of the reports and commentary on Littleton was a professor of Christianity, as is visible in all his writings. That Hale, with such an authority before him, should not have deemed it necessary to cite Coke, familiar as his writings were to the profession, at a time when his works were the principal text book of every lawyer, cannot be the subject of much wonder; and we know, notwithstanding Mr. Jefferson's defense, that even Finch himself had quoted 8 H. 8, "*Ley de Dieu est Ley de terre.*" the law of God is the law of the land; Doc. and Stud. lib. 1, c. 6; Plowd. 295, to sustain his position that the holy Scripture is of sovereign authority, and to show the extent and meaning of the maxim. But, independent of Lord Coke or any other judge, Sir Mathew Hale was an authority of himself, and is considered a sufficient authority for a common law principle in every case where there is no contrary authority. What sources of legal knowledge his great erudition may have consulted on this subject, we have no means of certainly knowing, nor is it necessary to inquire.

As for the alleged translation of Finch, we have examined the whole passage, and are well satisfied that if Finch construed *ancient scripture* to mean *holy scripture*, such a translation of the Norman French would be the true translation. But in fact, Finch has not ventured any translation of the passage whatever, notwithstanding Mr. Jefferson pretends to copy the *very words* in which he translated it. We speak with the work of Henry Finch, of Gray's Inn, book 1st, chap. 3, published in London 1759, before us. Mr. Jefferson has made a translation for him in words with inverted commas, then attempted to prove his translation false and failed to do it. Finch evidently believed that Prisot spoke of the holy Scripture, and therefore he cited the Year Book with other authorities to sustain a general position in the text, that the Scriptures were of sovereign authority, a position which, like that of every other compiler, was good to the full extent of

his authorities, and no further, and which is sustained by the Year Book so far as to show that the common law did recognize the decisions of ecclesiastical courts which were founded on the Scriptures, *as conclusive when brought collaterally in question in a common law court.* Lord Mansfield's alleged judicial forgery stood, as the cases we have cited prove, upon other and many other authorities than Mr. Jefferson appears to have ever read. There is much more in this long and able opinion worthy of publication, as explanatory of the principles we are discussing, but it would be repeating in substance what has already been given as the judgments of other courts.

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I have before referred to the latest and best authority on American criminal law, being Mr. Wharton's. In section 2527, he thus refers to the great case of *Nidale v. Girard*, 2 Howard S. C. Rep. 198: "In the important case which settled the validity of Mr. Girard's will, the Supreme Court of the United States has placed the doctrine on a foundation which cannot, on constitutional grounds, be shaken." It will be recollected that the heirs at law endeavored to set aside the will on the ground that, as it provided for a system of education from which ecclesiastics were to be excluded, it was void at common law and the charity fell. "We are compelled to admit," says Mr. Justice Story, in giving the opinion of the Court, "that although Christianity be a part of the common law of the State, yet it is so in this qualified sense, THAT ITS DIVINE ORIGIN AND TRUTH ARE ADMITTED, and therefore, it is not to be maliciously and openly reviled and blasphemed against to the annoyance of believers, or the injury of the public." This view, Mr. Binney, on the part of the devisees in that great argument which has assumed a judicial weight from its fairness as well as from its ability, did not dispute. "Christianity," said Mr. Binney, "is part of the law of Pennsylvania, it is true, but what Christianity and to what extent? It is Christianity with liberty of conscience to all, and to the intent that its doctrines should not be vilified, profaned, or exposed to ridicule. It is Christianity for the defense and protection of those who believe, not for the persecution of those who do not." Christianity is the *bed rock* which underlies our whole social system, and as has been seen in the quotation made from the Roman law, by Chief Justice Kent, the religion of every country, from the earliest history of the human race, must necessarily be the foundation of its civil polity. I will give some further extracts from Mr. Wharton's work, which expresses in clear terms the relation of Christianity to law. I quote at length, both from decisions and this author, because single paragraphs do not always give the true meaning when taken isolated and apart from the general scope of the argument.

"SEC. 2539. The difficulties which have attended the consideration of the inquiry, how far Christianity is part of the common law, have arisen from a confusion of the two main relations in which the one comes in contact with the other. These relations are section 2540, (a) the spiritual, in which Christianity claims and obtains simply that protection which any religious institution, adhered to by a respectable portion of the community, is entitled to receive. Section 2541, (b) the moral and economical, in which Christianity is the basis of our whole legal and political system, infringements of its laws being punished by the secular authorities to the same effect as offenses prohibited by statute.

"SEC. 2542 (a). *The Spiritual.* Under this head may be ranked a class of cases which

are often, though erroneously, cited as proof of the elementary position of the incorporation of Christianity into the common law, viz: Those in which it is held indictable to disturb Christian congregations when in the act of worship; to publicly and grossly blaspheme, &c.; to publish any scandalous libel on the Christian religions; or to be *guilty of any public and voluntary labor on the Lord's day* in such a way as to interfere with the general quiet." The author goes on in this section to show that these offenses are indictable, without necessarily involving the inquiry that Christianity is part of the common law. "For," he says, "it is a common nuisance and punishable as such by indictment at common law, to disturb the religious worship of others, or flagrantly or indecently insult their religious belief, whatever may be their creed." He concludes this section as follows: "We may therefore conclude that, while the spiritual element in Christianity is protected by the common law, the former does not enter into the latter so as to place matters of religious faith within the jurisdiction of the civil authorities either for vindication or enforcement."

"SEC. 2543. (b). *The moral and economical.* In this view Christianity underlies the whole common law. To illustrate this, the following points may be noticed:

1. The family and social relations.
2. The marital relation.
3. The judicial relation.

"SEC. 2544 (1). *The family and social relations.* As to this there can be no question. In the most polished nations of antiquity, before the introduction of Christianity, and now, in all classes of non-Christian countries, no law existed, or exists, to exact the nurture of parents and of young children; or, in other words, the maintenance of the home system. Even in the languages of most of these nations the word HOME has no place. And the same hard temper exhibits itself in the merely social relations. Great philosophers indeed there have been, who declared it to be immoral to refuse aid to dependents when such aid is necessary to preserve life; to be guilty of negligence in the discharge of trusts or offices, whereby injury accrues to others; or to violate the decencies and sanctities of life or death. But these opinions of philosophers were purely speculative and eccentric, nor was it pretended there was any law to enforce them unless such law should be made for the specific purpose. Thus the parent could with impunity disband his family and cast his children to the winds, or the child could refuse succor to an aged and destitute parent. There was no obligation required in the community to support the sick or the incapable, of which a striking proof is found in the fact that, until the propagation of Christianity, no such thing as a HOSPITAL was known. Even in the most refined classical eras, no violation of social or domestic duty was held punishable unless it fell within the very few overt acts which were prohibited by statute. Now observe how different it is with THE COMMON LAW OF ENGLAND AND AMERICA. With us it is held indictable for any one to refuse succor to another to whom he is bound by social or domestic ties, *e. g.*, child to parent, parent to child, husband to wife, master to servant, or even—when by peculiar circumstances, the duty of protection is created from one to the other—stranger to stranger. Few criminal cases are now more frequent than those in which the law steps in and enforces these very duties. The master who refuses to supply his apprentice with suitable food; the husband who neglects the proper nurture of his wife; the stranger who lets a helpless infant starve at his gate, have each, when injuries ensue, been held penally responsible. Now on what principle do these cases rest? Certainly not on statute, because there is no statute on the subject. They are sustained on the broad principle of common law, that when a duty is violated a penalty will be imposed. *But what is there to declare the duty?* And the only method of solving this difficulty is by resort to the great substratum of Christian ethics, on which the common law, as declared judicially by the English courts, from whence we took it, is founded.

"SEC. 3545 (2). *The marital relation.* This stands on still stronger grounds. Offenses against the marital relation, involving, in fact, the whole class of offenses against chastity, even when unaccompanied by force, have been held indictable in this country at common law; while in England, except when amounting to public nuisances, they are only cognizable in the ecclesiastical courts. And this is an extremely important fact. In England, not only is Christianity established by law, but, to enforce its moral code, a special range of courts of the ecclesiastical is provided. Now with us, Christianity, as a spiritual system, is not established by law, but as a moral and economical it is; and to enforce it in this relation, we have borrowed all the economical and moral jurisdiction of the ecclesiastical tribunals, and worked it into our common law courts. If we search, therefore, for the source from whence we derive the authority to declare that offenses against the marital relation are penal, we trace it directly through the eccles-

astical courts of England to the moral code of the New Testament which these courts were established to enforce.

"Sec. 2546 (3). *The judicial relation.* The whole sanction of public justice rests on religion; and unless there be a positive conscientious dissent, on Christianity. On the Bible must all witnesses, judges and jurors be sworn before entering on their duties, unless they have conscientious scruples against such an oath. In all cases where such scruples do not definitely and affirmatively exist, the law takes the responsibility and requires the invocation of the God of the Bible before it will permit its officers to enter on their functions, or witnesses, brought to testify before these officers, to be heard. And it punishes with tremendous severity a violation of this oath. For that it is the *oath* that become an essential element in the crime of perjury, is obvious from the fact that, if the oath was not administered regularly, the offense is not proved, though the false statement got to the jury and had been acted upon by them. It cannot be disputed, therefore, that while on the one hand, the Bible is not forced upon conscientious dissent, it is, nevertheless, at the foundation of our whole judicial system, so far as the great question of the execution of justice is concerned."

This completes my long extracts. I might have cited many other authorities, especially from courts in the New England States, but they will be found on reference to the elementary work of Mr. Wharton, and as Courts in New England may be tinged with Puritanism, I have made my extracts from opinions in the courts of the Middle and Southern States. I have furnished ample authority from the time of Bracton, who is said to have written in the year 1270, down to the year 1857, the date of Mr. Wharton's publication. During this long period I find no adjudged case holding a contrary doctrine, and as Judge Duncan said, the subject is indeed trite. In every age, fanatic infidelity has attacked the principle; but it has stood, and we hope may continue to stand against the open assaults of the infidel, or the more dangerous assaults of misguided friends.

I here conclude what I have to say as to Christianity being a part of the common law. My next number will discuss how far the Constitution of California has limited legislative control over this principle, and to what extent we may safely go, consistently with all constitutional rights and guarantees.

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I come next to consider in pursuance of propositions before illustrated, whether there is anything in the Constitution of the State of California which restricts the power of the Legislature as to the question of the Bible in schools, a law for the better observance of the first day of the week, commonly called Sunday, and the appointing of Chaplains to the Legislature: and whether there is anything in that instrument which ignores Christianity as part of the common law and the foundation which underlies our whole system. I beg to repeat, it does not fall within my limits to discuss the *expediency* of any of the measures proposed. What I do propose is an inquiry into the constitutional argument attempted in this book. It is true, the book deals in generalities, and seems to rely, mainly, on the Constitution of the United States, which, as I have shown, has nothing to do with the subject; but a full and fair discussion cannot be had without a critical examination of the Articles of our Constitution which bear upon the subject. They are the first and fourth sections of the declaration of rights, the second section of Art. 9, and section three of Art. 11. In connection with these provisions, is the Act adopting the common law, being chapter 95 of the Session Laws of 1850, page 219. The first section of the declaration of rights is, "All men are by nature free and independent, and have certain inalienable rights, among which are

those of enjoying and defending life and liberty ; acquiring, possessing and defending property ; and pursuing and obtaining safety and happiness." This general declaration has no bearing on the points under discussion, and I should not have referred to it, but that it is relied upon in the opinions of C. J. Terry and Judge Burnett, in the case *ex parte* Newman, 9 Cal. Rep., 503, of which hereafter.

The fourth section of the declaration of rights is as follows ; " The free exercise and enjoyment of religious profession and worship, without distinction or preference, shall forever be allowed in this state ; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief ; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State." Sec. 2 of Art. 9, " The Legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, *moral* and agricultural improvement." The third section of Art. 11, prescribes the oath to be taken by all officers, and for our present purpose it is nearly in the form prescribed by the Constitution of the United States. The Act entitled " An Act adopting the common law," passed April 18, 1850, is as follows : " The common law of England, as far as it is not repugnant to, or inconsistent with, the Constitution of the United States, or the Constitution or laws of the State of California, shall be the rule of decision in all the courts of this State." In view of these several provisions of the Constitution, and this Act of the Legislature, is Christianity a part of the common law of this State ? It is so, unless it is inconsistent with the Constitution of the United States, or the Constitution and laws of this State. That it is not inconsistent with the Constitution of the United States, we have already seen, and it only remains to inquire whether it is inconsistent with the laws and Constitution of California. The fourth section of the declaration of rights, granting the free exercise and enjoyment of religious profession and worship, is the only material one so far as this question is concerned. Does the general recognition of Christianity interfere with the free exercise and enjoyment of religious profession and worship ? The answer to this question seems so plain and clear as not to require illustration. All are not only permitted, but protected in the enjoyment of their own religious views and worship ; and that this is so, does not in any manner prove that Christianity is not the basis upon which we build the superstructure of law and morals. He would be a *bold man* and would greatly exceed our Reverend author, who would aver or endeavor to maintain that Christianity is inconsistent or repugnant to our Federal or State Constitution. Unless it can be shown to be repugnant, it is a part of the law of the land. But there are various provisions distinctly and clearly recognizing this system of religion. The oath required recognises it. The exemption of Sundays from the period of ten days within which a bill must be returned to the Legislature by the Governor, recognises it. But above all, the Legislature is expressly authorized to encourage by all suitable means, the *moral* improvement of the people. What is intended by moral improvement in this connection ? Is it the morality of Mahomedans, Mormons, Chinese, Buddhists, or Christian morality ? When we regard the Constitution in the light of history, and endeavor *honestly* to ascertain its true meaning, this question can have but one answer. The morality of Christianity is the kind of morality which is recognized, and no reference was had in the minds of



the framers of our Constitution to any other code. Religious liberty in its fullest extent is guaranteed ; but when we come to inquire what is morality, where will you go to find it? There is no such thing as general, universal morality. What is moral in Turkey is condemned in California as licentious. Where will you get your code of morals unless you resort to Christianity? When the Legislature, therefore, is enjoined to provide for the *moral improvement* of the people, no sane man can doubt that the moral improvement rests upon the basis of Christian morality. There is, therefore, nothing in the Constitution of this State which ignores Christianity, but many provisions which distinctly recognise it. The power of the Legislature over the subject of education is, under our Constitution, complete, not only as an attribute of sovereignty, but as an express grant. The law confides the details, such as books to be used in schools, to Superintendents, Boards of Education, and other subordinate tribunals. As regards the use of the Bible in schools, much unnecessary alarm is manifested by the author of this book. He seems to suppose there is to be a political effort to affect this question. The Legislature has not, and probably will not, make any designation of the particular books to be used in schools. This matter is entirely confided to the local authorities. The only restriction on the subject is that found in section 33 of the "Act to establish, support and regulate common schools," passed May 3d, 1855. See Wood's Digest, page 673. That section is in these words :

"No books, tracts or papers of a sectarian or denominational character, shall be used or introduced in any school established under the provisions of this act ; nor shall sectarian or denominational doctrines be taught therein." What books, tracts or papers come within the prohibition is left to the judgment of the local authorities. It is, however, entirely obvious, that the meaning and intent of the Legislature was to guard the schools against the evils which would result from favoring any particular sect of Christians. It was not designed to ignore religion, because that is not the meaning or obvious import of the words. "Sectarian and denominational" are terms used to denote those entertaining different views of the same religion. There are sects among the Mahomedans, yet all derive or profess to derive their doctrines from the Koran. There are different sects among the Brahmins : and when the term sect is used it is intended to designate the different views of religionists who derive their faith from a common source. The terms as used in this act, mean the various Christian sects who differ in their views of what the Bible really teaches. To call the Bible a sectarian or denominational book, is, in reference to the true meaning of this law, arrant nonsense, and no candid man can give any such interpretation to the statute. It is said in the book I am reviewing, where an entire district were willing to have the Bible, there it might with propriety be introduced. This concedes the whole argument ; because if illegal and unconstitutional, no consent could excuse the infraction of law. No unanimity of opinion, however great, can make that right which is illegal and unconstitutional. The Catholics deem our system of education irreligious and infidel, because religion is no part of our educational system. They differ from us in this, that with them the Church is the interpreter, and with us there is the right and duty of private judgment. It is obvious that with Catholics the Bible could not form a school book, or book of general reading, unless accompanied by the interpretation of the Church, because otherwise, heresy and schism might intervene.

This is not because the Bible is a sectarian book, but because one sect assumes the sole right of interpretation. It may therefore be inexpedient in some localities for this reason, to bring the Bible into schools; but this does not affect the question I am discussing, as to the legal and constitutional right of the public authorities to make the Bible a school book, if they deem it best. It is a book of which no one aiming at even a common education should be ignorant. I refer merely to its literary merits, to its moral principles, and to the rules of life and conduct contained in it. I apprehend it would be entirely legal to have the Koran read in our schools, if its literary merits were such as to recommend it to those having the supervision of such matters, unless it should be found to contain matter licentious and immoral. It is not a sectarian book, but a book the interpretation of which has given rise to sects.

It is said, however, in relation to this matter, that taxation and representation should be reciprocal, and as the introduction of the Bible into the schools would prevent Catholics, and perhaps other sectaries from availing themselves of the benefit of a free school education, it would be illegal and unconstitutional. The point made in the book, if I understand it, is that no person should be taxed unless they can avail themselves of the benefit. This seems to be what our reverend author understands by *taxation and representation*. This argument proves too much; for if no one is to be taxed except those that can avail themselves of the benefit, then all our *old bachelors* and *old maids* should be exempt from taxation, as the legal presumption is, in the absence of proof to the contrary, that they have no children to educate. More than one-half of the taxes of this city are paid by unmarried persons and non-residents, who cannot derive any direct benefit from the schools. The indirect advantages are the same to all classes whether they have children and omit to send for any cause, or whether they are without them. In no view of the matter, so far as the school tax is concerned, is the assessment personal. It is a tax on property by whomsoever held, and in respect to such property the burthen is imposed. There are a great variety of matters for the support and maintenance of which taxes are imposed, where the tax-payer cannot participate in the benefits directly, but which regard the general welfare, and for which property is assessed. Many owners of property do not derive any direct benefits from lights, police arrangements for night-watch and other matters. This plank in the argument of our reverend friend is too narrow to stand upon. The only constitutional requirement is, that all taxation shall be equal; that there shall not be any unjust discrimination; and all property shall sustain its fair proportion of the burthen. It cannot be claimed that the fourth article of the bill of rights affects this question. "The free exercise and enjoyment of religious profession and worship" are guaranteed. Whether the Bible is read in schools in no manner interferes with the free exercise of religious profession and worship. If all books treating on moral or religious (not sectarian) subjects are excluded, the schools will have a barren literature. The great poem of Milton would be excluded, and portions of Shakespear might be expunged. There is no constitutional limit on this subject. The law before cited guards against merely sectarian or denominational teaching, that is, the schools shall not be a place for proselyting. In the great diversity of religious faith this would be destruction to the system.

I have done with the legal argument as to the introduction or exclusion of the Bible in our public schools. As to the expediency of the thing, it is conceded by me there may be at present grave doubts. That we need the religious element in the formation of character, all will concede; and it may be safely asserted that, so far as Protestants are concerned, they are now and will be likely to remain without any adequate provision to supply this want. The Catholics are better off. They have missionaries, societies, &c., devoted to the business of education, and from the nature of their faith it is with them a conscientious requirement that education should include to some extent their dogmatic theology. Our common schools, with or without the Bible, do not meet the requirement of the Roman Church, and under our system never can.

As to the power to pass laws for the better observance of the first day of the week, commonly called Sunday; I will consider it in my next and closing number.

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One authority cited by the author to show that we do not recognize any religion is the 11th article of the first treaty with Tripoli, one of the Barbary States. These States had for a long period been hostile to Christian powers, and either received tribute, or pirated upon their commerce and reduced their captives to slavery. The infant Republic would neither pay tribute or submit to piracy. Turkey and these States were founded by Moslems, and Christians were deemed their natural foes. It was desirable, as a matter of diplomacy, to do away with the impression that the United States had any religious enmities. It is true, as stated in the 11th article of the treaty, and a more full quotation will give the meaning more exactly, that the "Government of the United States is not in any sense founded on the Christian Religion." Now, this is a true statement. It is not claimed that the Government of the United States is founded on any religion, but let us quote the succeeding paragraph: "As it has in itself no character of enmity against the laws, religion or tranquillity of Musselmen, and as the said States have never entered into any war or act of hostility against any Mahomedan nation, it is declared by the parties, that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries." The meaning and intent of this article is apparent. It was not to ignore all religion, but to convince the Musselmen that we had no governmental religion, and were not necessarily in hostility with Mahomedans. But the assertion of the Book, page 70, that our treaties with Turkey and the Barbary States contain the phrase that the government, etc., is not, in any sense, founded on the Christian religion, is a misstatement. There is no treaty with Turkey, or any of the Barbary powers, which contains the statement, except the 11th article of the first treaty with Tripoli. The second treaty with Tripoli, of 4th June, 1805, omits this clause, and article 14th states: "As the Government of the United States of America has, in itself, no character of enmity against the laws, religion or tranquillity of Musselmen," etc., no pretext arising from religious opinions shall interrupt the harmony existing between the two nations. The Consuls and agents of both governments shall have liberty to exercise their religion, each in his own house." This was a concession to us. Under our system they had this right; the first treaty did not secure it to us. We have but one treaty with Turkey diplomatically, called the

without great injury to their business unless all would do the same. It is also believed that conscientious Hebrews are not opposed to a Sunday law. So far as I am informed, it met the approbation of that class in San Francisco. "For he is not a Jew which is one outwardly; neither is that circumcision which is outward in the flesh. But he is a Jew which is one inwardly; and circumcision is that of the heart, in the spirit, and not in the letter; whose praise is not of men but of God." Romans, 2d chap., 28th and 29th verses. The only organized opposition, so far as I heard, in San Francisco, was the Liquor Dealers' Association.

The book I have attempted to review is pleasing in style, as everything written by the author usually is, but so far as precise and definite argument is concerned, I have attempted to point out errors and defects. I have endeavored to do so without intending in the slightest degree to injure, or attempt to lessen the great merits of its distinguished author.

Note (a) page 68.—It may seem strange that I have not retained a copy of my own lecture, yet such is the fact. It is proper for me to explain this matter. Some few months after I came to this State I was requested to deliver a lecture before the Young Men's Christian Association; and after I had consented, the subject of the lecture was suggested by an article in the *Westminster Review* for October, 1854, in which the general proposition was maintained, with the great ability which characterizes all articles in that journal, that the sphere and duties of Government were confined to the mere protection of material interests; that with education, morality, internal improvement and the various enterprises in which we have engaged, Government ought not to have any necessary connection. The lecture was delivered to a very small audience on a rainy night, and from a rough manuscript and some notes for oral illustration. A friend requested the manuscript, as I met him in the aisle of the Church, and I gave it to him, and the next I heard of the lecture it was published in the *Pacific*. The gentleman who requested the manuscript was, probably, at the time connected with the paper, and probably supposed I knew that fact. The truth is, however, I was entirely surprised by seeing the publication. It needed revision, or at least some correction. It was published in pamphlet afterwards from this copy in the *Pacific* without any alteration or correction. The file of the *Pacific* containing it is mislaid, and the original manuscript is in part lost, so that I have no copy. Whether from carelessness, or a want of due appreciation of my own productions, the fact is, that of the orations, lectures, &c., delivered by me, and they have been several, I have not a copy of one. My briefs I preserve, but my miscellaneous writings have not been cared for.

Note (b) page .—The eleventh table of the laws of the twelve tables, during the Roman Commonwealth, was devoted to religion. So also, as illustrating this subject, Cooper, in his note on Lib. 1, T. 9, Sec. 1, of the Institutes of Justinian, after reviewing the former Roman law, says: "Christianity has settled the question of polygamy among Christians, notwithstanding the practices recorded in the Old Testament." Concubinage was allowed and regulated by the Roman law and polygamy was introduced by Valentinian first, but did not continue long. The definition of marriage in this section of the Institutes is: "Matrinony is a connection between a man and a woman, implying a mutual and exclusive cohabitation during life." This law was the effect of the introduction of Christianity.

Note (c) page 91.—Murillo Vol. 1, No. 23, p. 9: "It was formerly exacted in Spain that whoever would cite in Court the Imperial or Roman laws should suffer death; and therefore the civil law could not be cited as a law, but only as written reason." In our country a similar instance occurred: About the year 1808, a law was passed in Kentucky, owing, perhaps, to some local prejudice, that no Virginia statute or decision should be cited in their Courts. The great majority of the population were from Virginia, and the inefficiency of such legislative enactment was soon perceived and in a year or two repealed.